

2005 ASSEMBLY BILL 539

1 **AN ACT** *to repeal* 46.90 (1) (b), 46.90 (1) (c), 46.90 (1) (d), 46.90 (1) (e), 46.90 (4)
2 (a) 2., 46.90 (5) (d) 2., 46.90 (5) (g), 55.01 (1t), 55.01 (3), 55.01 (4p), 55.01 (7),
3 55.043 (1) (title), 55.043 (5), 55.043 (9), 813.123 (1) (c), 813.123 (1) (f), 813.123
4 (1) (h), 813.123 (11), 940.285 (1) (a), 940.285 (1) (b), (bm), (c) and (d), 940.285
5 (1) (e), 940.295 (1) (cm), 940.295 (1) (hm), 940.295 (1) (j), 940.295 (1) (jm),
6 940.295 (1) (kp), 940.295 (1) (n), 940.295 (1) (t) and 943.20 (2) (e); **to renumber**
7 940.225 (5) (ab), 940.295 (1) (a) and 943.20 (2) (a); **to renumber and amend**
8 46.90 (4) (a) 1., 46.90 (4) (b) 1. c., 46.90 (5) (a), 46.90 (5) (d) 1., 46.90 (6) (a), 46.90
9 (6) (c) 1., 46.90 (6) (c) 2., 46.90 (6) (c) 3., 55.043 (1) (a) (intro.), 55.043 (1) (a) 1.,
10 55.043 (1) (a) 2., 55.043 (1) (a) 3., 55.043 (1) (a) 4., 55.043 (1) (a) 5., 55.043 (1)
11 (b) (intro.), 55.043 (1) (b) 1., 55.043 (1) (b) 2. (intro.), 55.043 (1) (b) 2. a., 55.043
12 (1) (b) 2. b., 55.043 (2), 55.043 (4) (intro.), 55.043 (4) (a), 55.043 (4) (b), 55.043
13 (4) (c), 55.043 (4) (d), 55.043 (4) (e), 55.043 (4) (f), 813.123 (2), 813.123 (3) (b) 2.
14 and 3., 813.123 (4) (a) 2. and 880.01 (5); **to consolidate, renumber and**

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amend 813.123 (3) (b) (intro.) and 1.; ***to amend*** 20.435 (7) (dh), 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (4) (h), 46.286 (1) (intro.), 46.286 (3) (a) (intro.), 46.286 (3) (a) 3., 46.90 (1) (g), 46.90 (2), 46.90 (3) (title), 46.90 (3) (a), (b) and (c), 46.90 (4) (b) 1. b., 46.90 (4) (b) 2. c., 46.90 (4) (c), 46.90 (4) (d), 46.90 (5) (b) (intro.) and 1. to 5., 46.90 (5) (c), 46.90 (5) (f), 46.90 (5m) (title) and (a), 46.90 (5m) (b), 46.90 (5m) (c), 46.90 (6) (b) (intro.), 46.90 (6) (b) 1., 46.90 (6) (b) 2., 46.90 (6) (b) 3., 46.90 (6) (b) 4., 46.90 (6) (b) 5., 46.90 (6) (b) 6., 46.90 (6) (b) 7., 46.90 (7), 46.90 (8) (a), 46.90 (8) (b), 46.90 (8) (c) and (d), 51.01 (2g) (b), 51.01 (3g), 51.01 (5) (a), 51.30 (4) (b) 17., 51.42 (3) (e), 51.437 (4r) (b), 51.62 (3) (a) 2m., 55.001, 55.01 (1m), 55.01 (2), 55.02, 55.043 (title), 55.043 (3), 55.043 (4) (title), 55.06 (2) (c), 55.06 (11) (a), 106.54 (5), 146.82 (2) (a) 7., 813.123 (title), 813.123 (1) (a), 813.123 (1) (b), 813.123 (1) (g), 813.123 (4) (a) (intro.), 813.123 (5) (a) (intro.), 813.123 (5) (a) 3. a., 813.123 (5) (a) 3. b., 813.123 (5) (c) 1., 2. and 3., 813.123 (6) (a), 813.123 (6) (c), 813.123 (7), 813.123 (9) (intro.), 880.01 (2), 880.01 (4), 895.85 (2), 940.285 (title), 940.285 (2) (title) and (a) 1. to 3., 940.295 (1) (b), 940.295 (1) (o), 940.295 (3) (a) 3., 940.295 (3) (b) 1g., 940.295 (3) (b) 1m. and 943.20 (3) (d) 6.; ***to repeal and recreate*** 46.90 (1) (a), 46.90 (1) (f), 46.90 (5) (title), 51.62 (1) (ag), 51.62 (1) (br), 55.01 (1), 55.01 (1p), 55.01 (4r), 940.295 (1) (k) and 940.295 (1) (km); and ***to create*** 46.90 (1) (aj), 46.90 (1) (an), 46.90 (1) (br), 46.90 (1) (bt), 46.90 (1) (cm), 46.90 (1) (ed), 46.90 (1) (eg), 46.90 (1) (er), 46.90 (1) (fg), 46.90 (1) (gd), 46.90 (1) (gf), 46.90 (1) (gr), 46.90 (1) (h), 46.90 (1) (i), 46.90 (4) (ab), 46.90 (4) (ad), 46.90 (4) (ae), 46.90 (4) (b) 1. cm., 46.90 (4) (e), 46.90 (5) (a) 2., 46.90 (5) (b) 6., 46.90 (5) (br), 46.90 (5) (h), 46.90 (5m) (br), 46.90 (6) (ac), 46.90 (6) (b) 9. and 10., 46.90 (6) (bd), 46.90 (6) (br), 46.90 (6) (bt), 46.90 (6) (bv), (bw) and (by), 46.90 (9) (title) and (e), 51.62 (1) (ar), 55.01 (1e), 55.01

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1 (1f), 55.01 (1v), 55.01 (2s), 55.01 (4g), 55.01 (6), 55.01 (6d), 55.01 (6g), 55.043
2 (1d), 55.043 (1g), 55.043 (1m), 55.043 (1r) (title), 55.043 (1r) (a) 2., 55.043 (1r)
3 (b) (intro.), 55.043 (1r) (b) 3., 55.043 (1r) (b) 6. a., 55.043 (1r) (b) 6. b., 55.043 (1r)
4 (c) 2. b., 55.043 (1r) (d), 55.043 (2) (b), 55.043 (4) (am), 55.043 (5g), 55.043 (6),
5 55.043 (7), 55.043 (8), 55.043 (9m), 813.123 (1) (ae), 813.123 (1) (am), 813.123
6 (1) (br), 813.123 (1) (cg), 813.123 (1) (dm), 813.123 (1) (eg), 813.123 (1) (ep),
7 813.123 (1) (fm), 813.123 (1) (gr), 813.123 (1) (gs), 813.123 (2) (b), 813.123 (3)
8 (c) (intro.), 813.123 (4) (a) 2. b., 813.123 (4) (ar), 813.123 (5) (a) 3. c., 813.123 (5)
9 (ar), 940.225 (2) (j), 940.225 (5) (abm) and (ak), 940.285 (1) (ag), 940.285 (1)
10 (am), 940.285 (1) (dc), 940.285 (1) (dg), 940.285 (1m), 940.295 (1) (ad), 940.295
11 (1) (ag), 943.20 (2) (ac), 943.20 (2) (ad) and 943.20 (2) (ae) of the statutes;
12 **relating to:** adult protective services and providing penalties.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's special committee on the recodification of chapter 55, placement and services for persons with disabilities.

Scope and Definitions

Under current law, Wisconsin's elder abuse law, s. 46.90, stats., establishes a system in each county for the reporting and investigation of suspected elder abuse, and the provision of services to elder persons who are being abused or neglected or experiencing material abuse. The elder abuse reporting and services system set forth in s. 46.90, stats., addresses creating public awareness of elder abuse; who is responsible for receiving and responding to reports of suspected abuse and neglect; how services are provided once abuse or neglect is documented; and how information is exchanged among providers of services.

Currently, vulnerable adults who are under the age of 60 may also be victims of abuse, neglect, or misappropriation of property. However, under current law, Milwaukee county is the only county with the explicit authority to investigate suspected abuse, neglect, or misappropriation of property of a vulnerable adult under the age of 60, to determine if there is a need for protective services. A "vulnerable adult" is defined in s. 940.285 (1) (e) as any person 18 years of age or older who either is a developmentally disabled person or has infirmities of aging, mental illness, or other like incapacities and

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who is either: (1) substantially mentally incapable of providing for his or her needs for food, shelter, clothing, or personal or health care; or (2) unable to report cruel maltreatment without assistance.

Currently, the statutes inconsistently define abuse, material abuse, misappropriation of property, neglect, and self-neglect, when these conditions are experienced by elder or vulnerable adults. For example, the term “material abuse” is used in s. 46.90, stats., when referring to the misuse of an elder person’s property or financial resources. In ch. 55, however, the term “misappropriation of property” is used to refer to misuse of a vulnerable adult’s property or financial resources.

This bill revises the current statutory provisions of Wisconsin’s elder abuse law. The bill revises terminology, elder abuse reporting provisions, investigation provisions, and confidentiality of elder abuse reports and records. The bill also deletes reference to the term “elder person.” Under current law, an “elder person” who could receive services under the “elder abuse system” was defined as a person who is age 60 or older ~~or~~ subject to the infirmities of aging. The bill instead refers to an “elder adult-at-risk,” who is defined as “a person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.”

The bill also permits counties to assist persons who are at risk of experiencing abuse, neglect, or financial exploitation who are under age 60 (currently, only Milwaukee County has this authority). These persons, who are at risk due to a physical or mental condition are defined as “adults-at-risk” in ch. 55. An “adult-at-risk” is defined as “any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.” In addition, the draft creates parallel provisions in ch. 55 to the elder abuse system in ch. 46 to permit abuse investigations and follow-up services to be provided on behalf of these adults-at-risk.

The bill revises definitions of several terms in current law, including the terms abuse, neglect, and self-neglect. The term “material abuse” is redefined as “financial exploitation” and made more precise with regard to what constitutes financial exploitation. Some new definitions are created, including “emotional abuse,” “state official” (to whom reports of suspected abuse or neglect may also be made), and “investigative agency.”

Reports

Under current law, Wisconsin requires the reporting of suspected child abuse and neglect. However, there is no similar requirement for reporting the abuse of vulnerable adults, even in the most egregious cases of suspected abuse or neglect where the elder or vulnerable adult’s life may be in danger. Wisconsin’s elder abuse system is based on voluntary reporting of suspected abuse, neglect and material abuse.

Once a report of suspected abuse, neglect, or material abuse is made, the county agency must investigate the report and, if it is found that the person is being abused or neglected, services must be offered to the individual. The individual has the option of refusing to accept the services. The services must be offered in the least restrictive manner necessary to achieve the objective of protecting the individual.

This bill retains the voluntary system of reporting for the majority of situations of suspected abuse or neglect. However, the bill creates a provision requiring certain categories of persons to file reports in situations where the elder person is facing a serious risk of harm or even death.

Under the bill, the following persons must file a report of suspected abuse or neglect if there is reasonable cause to believe that the elder adult-at-risk or adult-at-risk is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss, and is unable to make an informed judgment about whether to report the risk; or other adults-at-risk, are at risk of serious bodily harm, death, sexual assault, or significant property loss inflicted by the suspected perpetrator:

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- An employee of any entity that is licensed, certified, or approved by, or registered with the department of health and family services (DHFS).

- A health care provider.

- A social worker, professional counselor, or marriage and family therapist.

These persons are not required to file a report, however, if the person believes that filing the report would not be in the best interest of the elder adult-at-risk or adult-at-risk. If the person believes this, the person must document the reasons for this belief in the case file of the person who is the suspected victim. There is a penalty for not complying with this requirement, which is a fine of not more than \$500, imprisonment not more than six months, or both.

The bill applies the immunity protections in current law to the new category of required reporters created in the bill. Therefore, a person required to file a report under the bill may not be discharged or retaliated against for doing so. The person found guilty of retaliating against a reporter is subject to a fine of not more than \$1,000, imprisonment not more than six months, or both. In addition, a person is immune from civil or criminal liability for filing a report.

The bill also increases the penalties for retaliating against a reporter, by increasing the maximum fine to \$10,000. In addition, the bill creates a rebuttable presumption that any discharge of a person or act of retaliation or discrimination that is taken against a person who makes a report, within 120 days after the report is made, establishes a rebuttable presumption that the discharge or act is retaliatory.

Investigations

Under current law, upon receiving a report of abuse, material abuse, neglect or self-neglect, the county agency must either investigate the report or refer the report to another agency for investigation. If the report concerns abuse of a person who resides in a nursing home, community based residential facility, or receives services from a licensed home health agency, the county agency must refer the report to DHFS for investigation. An investigation of a report must be commenced within 24 hours after a report is received, excluding Saturdays, Sundays, and legal holidays. An investigation of a report of material abuse shall be commenced within 5 days after a report is received, excluding Saturdays, Sundays, and legal holidays. The scope of the investigation is at the discretion of the investigating agency and may include a visit to the elder person's residence; observation of the elder person; an interview with the elder person, or the elder person's caretaker, if any; and a review of treatment and health care records.

The bill creates new provisions regarding referral of an investigation to another agency, if the county department, or agency under contract with the county department, determines that there are circumstances that would prevent conducting an independent investigation. In that case, the bill permits the DHFS or another county department to conduct the investigation. In addition, additional investigative tools are provided to investigative agencies, including the ability to interview the elder adult-at-risk or adult-at-risk, with or without the consent of the person's guardian; an interview of the guardian; transporting the person for a medical examination; and a review of the financial records of an elder adult-at-risk or adult-at-risk in cases of suspected financial exploitation. The bill also provides immunity from civil or criminal liability or a finding of unprofessional conduct if any element of an investigation was performed in good faith and under lawful authority.

Services

Currently, a county agency or investigating agency must determine whether the person who is the subject of the alleged abuse or neglect is in need of services. If the department so determines, the agency must provide the necessary direct services to the person, within the limits of available funds.

The bill provides more specificity with regard to what types of services and responses may be made by an agency if a person is found to be the subject of abuse or neglect or financial exploitation. These responses include:

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- Requesting immediate assistance in either initiating a protective services action or contacting law enforcement or another public agency as appropriate.
- Taking appropriate emergency action, including emergency protective placement under s. 55.06.
- Referring the case to local law enforcement for further investigation or to the district attorney, if the elder adult-at-risk agency has reason to believe that a crime has been committed.
- Referring the case to the licensing or certification authorities of the department or to other regulatory bodies if the residence, facility, or program for the elder adult-at-risk is or should be licensed or certified or is otherwise regulated.
- Referring the case to the department of regulation and licensing if the abuse, financial exploitation, neglect or self-neglect involves an individual who is required to hold a credential under chs. 440 to 460, stats.
- Bringing or referring for a petition for a guardianship and protective services or placement, if necessary.

Records and Reports: Confidentiality

Under current law, the county agency or other investigating agency must prepare a report on each investigation it conducts unless the agency finds, at the conclusion of the investigation, that the report of alleged abuse, material abuse, neglect or self-neglect is without foundation. If an agency other than the county agency conducts the investigation, it must submit a copy of the investigation report to the county agency.

Reports of suspected abuse, material abuse, neglect or self-neglect and investigation reports under this section are confidential and may not be released by the county agency or other investigating agency, except under the following circumstances:

- To the elder person and any person named in a report who is suspected of abusing or neglecting an elder person.
- To the protective services agency that is notified when an elder adult at risk is believed to be at risk of substantial physical harm, irreparable injury, or death.
- To an individual, organization or agency designated by the DHFS or as required by law for the purposes of management audits or program monitoring and evaluation.
- For purposes of research if the research project has been approved by the department or the county agency and the researcher has provided assurances that the information will be used only for the purposes for which it was provided to the researcher.
- Pursuant to lawful order of a court of record.
- To any agency or individual that provides direct services after an elder abuse investigation has been completed.
- To the guardian of the elder person or the guardian of any person named in a report who is suspected of abusing or neglecting an elder person.
- To law enforcement officials in accordance with the policy for notifying these officials in appropriate cases, under the elder abuse reporting system.

Current law provides penalties for violating these confidentiality requirements. Any person who violates these provisions is liable to any person damaged as a result of the violation, together with exemplary damages of not less than \$100 nor more than \$500 for each violation, plus costs and reasonable actual attorney fees. If the violation was willful, exemplary damages of not less than \$500 nor more than \$1000 may be awarded. In addition, an individual may bring an action to enjoin a violation of the confidentiality requirements, or to compel compliance with the requirements.

Any person who requests or obtains confidential information under this subsection under false pretenses may be fined not more than \$500 or imprisoned not more than one year in the county jail or both.

The bill creates a distinction between records and departmental report forms prepared pursuant to investigations of abuse, neglect and financial exploitation. “Record” is defined as including any document relating to the response, investigation, assessment, and disposition of a report. A “departmental report form” is defined as including

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documentation of an agency's response to a report and the investigation of reported suspected abuse, financial exploitation, neglect, or self-neglect that provides a summary of the case, including the report form submitted to the state.

Reports may be released under the same circumstances as they may be released under current law, with two additions:

- To a federal, state, or local government agency of this state or any other state that has a need for a report or record in order to carry out its responsibility to protect elder adults-at-risk or adults-at-risk from abuse, neglect, self-neglect, or financial exploitation.

- To a reporter who made the report in his or her professional capacity, regarding action to be taken to protect or provide services to the alleged victim of abuse, neglect, financial exploitation, or self-neglect.

The bill also provides the agency with the ability to not release reports in certain cases, such as when the agency determines the release might be contrary to the interests of the victim or might cause harm to the victim, or the release might jeopardize an ongoing criminal or civil investigation.

Under the bill, records are confidential, and may not be released except under the following circumstances:

- To the elder adult-at-risk or adult-at-risk who is the victim named in the record.
- To the legal guardian, conservator, or other legal representative of the elder adult-at-risk or adult-at-risk who is the victim named in the record, provided that the legal representative of the victim is not the alleged perpetrator of the abuse, financial exploitation, or neglect.

- To law enforcement officials and agencies or a district attorney, for purposes of investigation or prosecution.

- To the DHFS, under s. 51.03 (2); or to the DHFS, a sheriff, police department, or district attorney for certain statutory death investigations

- To an employee of a county department that is providing services to the elder adult-at-risk or adult-at-risk who is the victim named in the record, or to the alleged perpetrator of abuse, to determine whether the victim should be transferred to a less restrictive or more appropriate treatment modality or facility.

- To a court, tribal court, or administrative agency for a proceeding relating to the licensure or regulation of an individual or entity regulated or licensed by the department, that was an alleged perpetrator of abuse, financial exploitation, or neglect, and the board on aging and long term care.

- To the DHFS, for management, audit, program monitoring, evaluation, billing, or collection purposes.

- To the attorney or guardian ad litem for the elder adult-at-risk or adult-at-risk who is the victim named in the record, to assist in preparing for certain court proceedings pertaining to the victim.

- To a coroner, medical examiner, pathologist, or other physician investigating the cause of death of an elder adult-at-risk or adult-at-risk that is unexplained or unusual or is associated with unexplained or suspicious circumstances.

- To staff members of the state-designated protection and advocacy agency, for the purposes of protecting and advocating for the rights of persons with developmental disabilities and mental illness.

- To an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of abuse, neglect, or exploitation of an elder adult-at-risk or adult-at-risk.

- To a grand jury, if it determines that access to specified records is necessary for the conduct of its official business.

- To a judge, tribal court, or administrative agency conducting proceedings under s. 968.26.

- Pursuant to a lawful order of a court of record.

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SECTION 1. 20.435 (7) (dh) of the statutes is amended to read:

20.435 (7) (dh) *Programs for senior citizens; elder abuse services; benefit specialist program.* The amounts in the schedule for the programs for senior citizens, including but not limited to the purpose of distributing funds under s. 46.80 (2m) (b) to supplement any federal foster grandparent project funds received under 42 USC 5011 (a) and the purposes of ss. 46.80 (5) and 46.85; for direct services for elder persons and other individuals adults at risk under s. 46.90 (5m); and for the benefit specialist program for older persons under s. 46.81. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer funds between fiscal years under this paragraph. All funds allocated under ss. 46.80 (2m) (b) and (5), 46.81 (2) and 46.85 but not encumbered by December 31 of each year lapse to the general fund on the next January 1, unless transferred to the next calendar year by the joint committee on finance, but the department may carry forward funds allocated under s. 46.90 (5m) that are not encumbered by June 30 of each year for allocation under s. 46.90 (5m) in the following state fiscal year. For the purposes of this paragraph, funds are encumbered by December 31 if allocated for services received or for goods ordered by December 31.

SECTION 2. 46.21 (2m) (c) of the statutes is amended to read:

46.21 (2m) (c) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) and 253.07 (3) (c), any a subunit of the a county department of human services or tribal agency acting under this subsection may exchange confidential information about a client, without the informed consent of the client, with any other subunit of the same county department of human services or tribal agency, with a resource center, a care management organization, or a family care district, with an elder-adult-at-risk

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1 agency, an adult-at-risk agency, or any agency to which referral for investigation is
2 made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any a person providing
3 services to the client under a purchase of services contract with the county
4 department of human services or tribal agency or with a resource center, a care
5 management organization, or a family care district, if necessary to enable an
6 employee or service provider to perform his or her duties, or to enable the county
7 department of human services or tribal agency to coordinate the delivery of services
8 to the client. An agency that releases information under this paragraph shall
9 document that a request for information was received and what information was
10 provided.

11 **SECTION 3.** 46.215 (1m) of the statutes is amended to read:

12 46.215 **(1m)** EXCHANGE OF INFORMATION. Notwithstanding ss. 46.2895 (9), 48.78
13 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
14 (3) (c) and 938.78 (2) (a), any a subunit of the a county department of social services
15 or tribal agency acting under this section may exchange confidential information
16 about a client, without the informed consent of the client, with any other subunit of
17 the same county department of social services or tribal agency, with a resource
18 center, a care management organization, or a family care district, with an
19 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral
20 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any
21 a person providing services to the client under a purchase of services contract with
22 the county department of social services or tribal agency or with a resource center,
23 a care management organization, or a family care district, if necessary to enable an
24 employee or service provider to perform his or her duties, or to enable the county
25 department of social services or tribal agency to coordinate the delivery of services

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1 to the client. An agency that releases information under this subsection shall
2 document that a request for information was received and what information was
3 provided.

4 **SECTION 4.** 46.22 (1) (dm) of the statutes is amended to read:

5 46.22 (1) (dm) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
6 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
7 (3) (c) and 938.78 (2) (a), ~~any~~ a subunit of the a county department of social services
8 or tribal agency acting under this subsection may exchange confidential information
9 about a client, without the informed consent of the client, with any other subunit of
10 the same county department of social services or tribal agency, with a resource
11 center, a care management organization, or a family care district, with an
12 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral
13 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any
14 a person providing services to the client under a purchase of services contract with
15 the county department of social services or tribal agency or with a resource center,
16 a care management organization, or a family care district, if necessary to enable an
17 employee or service provider to perform his or her duties, or to enable the county
18 department of social services or tribal agency to coordinate the delivery of services
19 to the client. An agency that releases information under this paragraph shall
20 document that a request for information was received and what information was
21 provided.

22 **SECTION 5.** 46.23 (3) (e) of the statutes is amended to read:

23 46.23 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
24 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
25 (3) (c) and 938.78 (2) (a), ~~any~~ a subunit of a county department of human services or

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1 tribal agency acting under this section may exchange confidential information about
2 a client, without the informed consent of the client, with any other subunit of the
3 same county department of human services or tribal agency, with a resource center,
4 a care management organization, or a family care district, with an
5 elder-adult-at-risk agency, an adult-at-risk agency, or any agency to which referral
6 for investigation is made under s. 46.90 (5) (a) 1. or 55.043 (1r) (a) 1g., or with any
7 a person providing services to the client under a purchase of services contract with
8 the county department of human services or tribal agency or with a resource center,
9 a care management organization, or a family care district, if necessary to enable an
10 employee or service provider to perform his or her duties, or to enable the county
11 department of human services or tribal agency to coordinate the delivery of services
12 to the client. An agency that releases information under this paragraph shall
13 document that a request for information was received and what information was
14 provided.

15 **SECTION 6.** 46.283 (4) (h) of the statutes is amended to read:

16 46.283 (4) (h) Provide access to services under s. 46.90 and ch. 55 to a person
17 who is eligible for the services, through cooperation with the county
18 elder-adult-at-risk agency or the adult-at-risk agency or agencies that provide
19 provides the services.

20 **SECTION 7.** 46.286 (1) (intro.) of the statutes is amended to read:

21 46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily
22 entitled to, the family care benefit if the person is at least 18 years of age; has a
23 physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as
24 defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as
25 defined in s. 55.01 (3) (1v); and meets all of the following criteria:

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SECTION 8. 46.286 (3) (a) (intro.) of the statutes is amended to read:

46.286 **(3)** (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may receive the family care benefit through enrollment in a care management organization if he or she is at least 18 years of age, has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or ~~infirmities of aging~~ degenerative brain disorder, as defined in s. 55.01 (3) (1v), is financially eligible, fulfills any applicable cost-sharing requirements and meets any of the following criteria:

SECTION 9. 46.286 (3) (a) 3. of the statutes is amended to read:

46.286 **(3)** (a) 3. Is functionally eligible at the intermediate level and is determined by an elder-adult-at-risk agency under s. 46.90 (2) or ~~specified in s. 55.01 (1t)~~ an adult-at-risk agency designated under s. 55.02 to be in need of protective services under s. 55.05 or protective placement under s. 55.06.

SECTION 10. 46.90 (1) (a) of the statutes is repealed and recreated to read:

46.90 **(1)** (a) “Abuse” means any of the following:

1. Physical abuse.
2. Emotional abuse.
3. Sexual abuse.
4. Treatment without consent.
5. Unreasonable confinement or restraint.

SECTION 11. 46.90 (1) (aj) of the statutes is created to read:

46.90 **(1)** (aj) “Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.

SECTION 12. 46.90 (1) (an) of the statutes is created to read:

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1 46.90 (1) (an) “Caregiver” means a person who has assumed responsibility for
2 all or a portion of an individual’s care voluntarily, by contract, or by agreement,
3 including a person acting or claiming to act as a legal guardian.

4 **SECTION 13.** 46.90 (1) (b) of the statutes is repealed.

5 **SECTION 14.** 46.90 (1) (br) of the statutes is created to read:

6 46.90 (1) (br) “Elder adult at risk” means any person age 60 or older who has
7 experienced, is currently experiencing, or is at risk of experiencing abuse, neglect,
8 self-neglect, or financial exploitation.

9 **SECTION 15.** 46.90 (1) (bt) of the statutes is created to read:

10 46.90 (1) (bt) “Elder-adult-at-risk agency” means the agency designated by
11 the county board of supervisors under sub. (2) to receive, respond to, and investigate
12 reports of abuse, neglect, self-neglect, and financial exploitation under sub. (4).

13 **SECTION 16.** 46.90 (1) (c) of the statutes is repealed.

14 **SECTION 17.** 46.90 (1) (cm) of the statutes is created to read:

15 46.90 (1) (cm) “Emotional abuse” means language or behavior that serves no
16 legitimate purpose and is intended to be intimidating, humiliating, threatening,
17 frightening, or otherwise harassing, and that does or reasonably could intimidate,
18 humiliate, threaten, frighten, or otherwise harass the individual to whom the
19 conduct or language is directed.

20 **SECTION 18.** 46.90 (1) (d) of the statutes is repealed.

21 **SECTION 19.** 46.90 (1) (e) of the statutes is repealed.

22 **SECTION 20.** 46.90 (1) (ed) of the statutes is created to read:

23 46.90 (1) (ed) “Financial exploitation” means any of the following:

24 1. Obtaining an individual’s money or property by deceiving or enticing the
25 individual, or by forcing, compelling, or coercing the individual to give, sell at less

ASSEMBLY BILL 539**SECTION 20**

1 than fair market value, or in other ways convey money or property against his or her
2 will without his or her informed consent.

3 2. Theft, as prohibited in s. 943.20.

4 3. The substantial failure or neglect of a fiscal agent to fulfill his or her
5 responsibilities.

6 4. Unauthorized use of an individual's personal identifying information or
7 documents, as prohibited in s. 943.201.

8 5. Unauthorized use of an entity's identifying information or documents, as
9 prohibited in s. 943.203.

10 6. Forgery, as prohibited in s. 943.38.

11 7. Financial transaction card crimes, as prohibited in s. 943.41.

12 **SECTION 21.** 46.90 (1) (eg) of the statutes is created to read:

13 46.90 (1) (eg) "Fiscal agent" includes any of the following:

14 1. A guardian of the estate appointed under s. 880.03.

15 2. A conservator appointed under s. 880.31.

16 3. An agent under a financial power of attorney under s. 243.07.

17 4. A representative payee under 20 CFR 416.635.

18 5. A conservatorship under the U.S. department of veterans affairs.

19 **SECTION 22.** 46.90 (1) (er) of the statutes is created to read:

20 46.90 (1) (er) "Investigative agency" means a law enforcement or a city, town,
21 village, county, or state governmental agency or unit with functions relating to
22 protecting health, welfare, safety, or property, including an agency concerned with
23 animal protection, public health, building code enforcement, consumer protection,
24 or insurance or financial institution regulation.

25 **SECTION 23.** 46.90 (1) (f) of the statutes is repealed and recreated to read:

ASSEMBLY BILL 539**SECTION 23**

1 46.90 (1) (f) “Neglect” means the failure of a caregiver, as evidenced by an act,
2 omission, or course of conduct, to endeavor to secure or maintain adequate care,
3 services, or supervision for an individual, including food, clothing, shelter, or
4 physical or mental health care, and creating significant risk or danger to the
5 individual’s physical or mental health. “Neglect” does not include a decision that is
6 made to not seek medical care for an individual, if that decision is consistent with the
7 individual’s previously executed declaration or do-not-resuscitate order under ch.
8 154, a power of attorney for health care under ch. 155, or as otherwise authorized by
9 law.

10 **SECTION 24.** 46.90 (1) (fg) of the statutes is created to read:

11 46.90 (1) (fg) “Physical abuse” means the intentional or reckless infliction of
12 bodily harm.

13 **SECTION 25.** 46.90 (1) (g) of the statutes is amended to read:

14 46.90 (1) (g) “Self-neglect” means a significant danger to an ~~elder person’s~~
15 individual’s physical or mental health because the ~~elder person~~ individual is
16 responsible for his or her own care but ~~is unable~~ fails to ~~provide~~ obtain adequate care,
17 including food, shelter, clothing, or medical or dental care.

18 **SECTION 26.** 46.90 (1) (gd) of the statutes is created to read:

19 46.90 (1) (gd) “Sexual abuse” means a violation of s. 940.225 (1), (2), (3), or (3m).

20 **SECTION 27.** 46.90 (1) (gf) of the statutes is created to read:

21 46.90 (1) (gf) “State governmental agency” has the meaning given for “agency”
22 in s. 16.417 (1) (a).

23 **SECTION 28.** 46.90 (1) (gr) of the statutes is created to read:

24 46.90 (1) (gr) “State official” means any law enforcement officer employed by
25 the state or an employee of one of the following:

ASSEMBLY BILL 539**SECTION 28**

1 1. The department of health and family services.

2 2. The department of justice.

3 3. The department of regulation and licensing.

4 4. The board on aging and long-term care.

5 5. A state governmental agency other than those specified in subds. 1. to 4. with
6 functions relating to protecting health and safety.

7 **SECTION 29.** 46.90 (1) (h) of the statutes is created to read:

8 46.90 (1) (h) “Treatment without consent” means the administration of
9 medication to an individual who has not provided informed consent, or the
10 performance of psychosurgery, electroconvulsive therapy, or experimental research
11 on an individual who has not provided informed consent, with the knowledge that
12 no lawful authority exists for the administration or performance.

13 **SECTION 30.** 46.90 (1) (i) of the statutes is created to read:

14 46.90 (1) (i) “Unreasonable confinement or restraint” includes the intentional
15 and unreasonable confinement of an individual in a locked room, involuntary
16 separation of an individual from his or her living area, use on an individual of
17 physical restraining devices, or the provision of unnecessary or excessive medication
18 to an individual, but does not include the use of these methods or devices in entities
19 regulated by the department if the methods or devices are employed in conformance
20 with state and federal standards governing confinement and restraint.

21 **SECTION 31.** 46.90 (2) of the statutes is amended to read:

22 46.90 (2) ~~COUNTY~~ ELDER-ADULT-AT-RISK AGENCY DESIGNATION. Each county
23 board shall designate an agency in the county as the ~~county~~ elder-adult-at-risk
24 agency for the purposes of this section.

25 **SECTION 32.** 46.90 (3) (title) of the statutes is amended to read:

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1 46.90 (3) (title) ~~COUNTY~~ ELDER-ADULT-AT-RISK AGENCY DUTIES.

2 **SECTION 33.** 46.90 (3) (a), (b) and (c) of the statutes are amended to read:

3 46.90 (3) (a) Each ~~county~~ elder-adult-at-risk agency shall develop a policy for
4 notifying other investigative agencies, including law enforcement officials in
5 appropriate cases, and shall establish an elder abuse reporting system to carry out
6 the purposes of this section. Each ~~county~~ elder-adult-at-risk agency shall enter into
7 a memorandum of understanding regarding the operation of the system with the
8 county department under s. 46.215 or 46.22 and with any private or public agency,
9 including a county department under s. 51.42 or 51.437, within the county that is
10 participating in the elder abuse reporting system. The memorandum of
11 understanding shall, at a minimum, identify the agencies that are responsible for the
12 investigation of reports of abuse, ~~material-abuse~~ financial exploitation, neglect, or
13 self-neglect of elder adults at risk and for the provision of specific direct services.

14 (b) Each ~~county~~ elder-adult-at-risk agency shall receive reports of abuse,
15 material-abuse financial exploitation, neglect, or self-neglect of elder persons adults
16 at risk.

17 (c) Each ~~county~~ elder-adult-at-risk agency shall publicize the existence of an
18 elder abuse reporting system in the county and shall provide a publicized telephone
19 number ~~which~~ that can be used by persons wishing to report suspected cases of
20 abuse, ~~material-abuse~~ financial exploitation, neglect, or self-neglect of elder adults
21 at risk. Each elder-adult-at-risk agency shall also provide a telephone number that
22 can be used to make reports after the elder-adult-at-risk agency's regular business
23 hours.

24 **SECTION 34.** 46.90 (4) (a) 1. of the statutes is renumbered 46.90 (4) (ar) and
25 amended to read:

ASSEMBLY BILL 539**SECTION 34**

1 46.90 (4) (ar) Any person, including an attorney or a person working under the
2 supervision of an attorney, may report to the county agency ~~or to any state official,~~
3 ~~including any representative of the office of the long-term care ombudsman under~~
4 ~~s. 16.009 (4), department, the elder-adult-at-risk agency, a state or local law~~
5 ~~enforcement agency, the department, or the board on aging and long-term care that~~
6 ~~he or she believes that abuse, material abuse or~~ financial exploitation, neglect, or
7 self-neglect of an elder adult at risk has occurred if the person is aware of facts or
8 circumstances that would lead a reasonable person to believe or suspect that abuse,
9 ~~material abuse or~~ financial exploitation, neglect, or self-neglect of an elder adult at
10 risk has occurred. The person shall indicate the facts and circumstances of the
11 situation as part of the report.

12 **SECTION 35.** 46.90 (4) (a) 2. of the statutes is repealed.

13 **SECTION 36.** 46.90 (4) (ab) of the statutes is created to read:

14 46.90 (4) (ab) The following persons shall file reports as specified in par. (ad):

15 1. An employee of any entity that is licensed, certified, or approved by or
16 registered with the department.

17 3. A health care provider, as defined in s. 155.01 (7).

18 4. A social worker, professional counselor, or marriage and family therapist
19 certified under ch. 457.

20 **SECTION 37.** 46.90 (4) (ad) of the statutes is created to read:

21 46.90 (4) (ad) Except as provided in par. (ae), a person specified in par. (ab) who
22 has seen an elder adult at risk in the course of the person's professional duties shall
23 file a report with the county department, the elder-adult-at-risk agency, a state or
24 local law enforcement agency, the department, or the board on aging and long-term

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1 care if the elder adult at risk has requested the person to make the report, or if the
2 person has reasonable cause to believe that any of the following situations exist:

3 1. The elder adult at risk is at imminent risk of serious bodily harm, death,
4 sexual assault, or significant property loss and is unable to make an informed
5 judgment about whether to report the risk.

6 2. An elder adult at risk other than the subject of the report is at risk of serious
7 bodily harm, death, sexual assault, or significant property loss inflicted by a
8 suspected perpetrator.

9 **SECTION 38.** 46.90 (4) (ae) of the statutes is created to read:

10 46.90 (4) (ae) A person specified in par. (ab) to whom any of the following applies
11 is not required to file a report as provided in par. (ad):

12 1. If the person believes that filing a report would not be in the best interest
13 of the elder adult at risk. If the person so believes, the person shall document the
14 reasons for this belief in the case file that the person maintains on the elder adult
15 at risk.

16 2. If a health care provider provides treatment by spiritual means through
17 prayer for healing in lieu of medical care in accordance with his or her religious
18 tradition and his or her communications with patients are required by his or her
19 religious denomination to be held confidential.

20 **SECTION 39.** 46.90 (4) (b) 1. b. of the statutes is amended to read:

21 46.90 (4) (b) 1. b. No person may discharge or otherwise retaliate or
22 discriminate against any person individual on whose behalf another person has
23 reported in good faith under this subsection.

24 **SECTION 40.** 46.90 (4) (b) 1. c. of the statutes is renumbered 46.90 (9) (d) and
25 amended to read:

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1 46.90 **(9)** (d) Any person who violates ~~this subdivision~~ sub. (4) (b) 1. may be
2 fined not more than \$1,000 \$10,000 or imprisoned for not more than 6 months or
3 both.

4 **SECTION 41.** 46.90 (4) (b) 1. cm. of the statutes is created to read:

5 46.90 **(4)** (b) 1. cm. Any discharge of a person or act of retaliation or
6 discrimination that is taken against a person who makes a report under this
7 subsection, within 120 days after the report is made, establishes a rebuttable
8 presumption that the discharge or act is made in response to the report. This
9 presumption may be rebutted by a preponderance of evidence that the discharge or
10 act was not made in response to the report.

11 **SECTION 42.** 46.90 (4) (b) 2. c. of the statutes is amended to read:

12 46.90 **(4)** (b) 2. c. Any person not described in subd. 2. b. who is retaliated or
13 discriminated against in violation of subd. 1. a. or b. may commence an action in
14 circuit court for damages incurred as a result of the violation.

15 **SECTION 43.** 46.90 (4) (c) of the statutes is amended to read:

16 46.90 **(4)** (c) No person may be held civilly or criminally liable or be found guilty
17 of unprofessional conduct for reporting in good faith under this subsection and
18 within the scope of his or her authority, or for filing a report with an agency not listed
19 in par. (ad) (intro.) or (ar) if the person had a good faith belief that the report was filed
20 correctly with one of the listed agencies.

21 **SECTION 44.** 46.90 (4) (d) of the statutes is amended to read:

22 46.90 **(4)** (d) If a report under par. ~~(a)~~ (ad) or (ar) is made to a state official, the
23 state official shall refer the report to the appropriate ~~county~~ elder-adult-at-risk
24 agency. The requirement under this paragraph does not apply to an employee of the

ASSEMBLY BILL 539**SECTION 44**

1 board on aging and long-term care who determines that his or her referral would be
2 in violation of 42 USC 3058g (d).

3 **SECTION 45.** 46.90 (4) (e) of the statutes is created to read:

4 46.90 (4) (e) Any person making a report under this subsection is presumed to
5 have reported in good faith.

6 **SECTION 46.** 46.90 (5) (title) of the statutes is repealed and recreated to read:

7 46.90 (5) (title) RESPONSE AND INVESTIGATION.

8 **SECTION 47.** 46.90 (5) (a) of the statutes is renumbered 46.90 (5) (a) 1. and
9 amended to read:

10 46.90 (5) (a) 1. Except as otherwise provided, upon receiving a report of alleged
11 abuse, material abuse financial exploitation, neglect, or self-neglect of an elder adult
12 at risk, the county elder-adult-at-risk agency shall either investigate respond to the
13 report including, if necessary, by conducting an investigation, or refer the report to
14 another agency for investigation. Upon receiving a report of alleged abuse, material
15 abuse financial exploitation, neglect, or self-neglect of an elder person who resides
16 in a community-based residential facility or a nursing home licensed under s. 50.03
17 or of an elder person who receives services from a home health agency licensed under
18 s. 50.49 and the person suspected of abusing or neglecting the person is an employee
19 of the home health agency a client, as defined in s. 50.065 (1) (b), of an entity, as
20 defined in s. 50.065 (1) (c), if the person suspected of perpetrating the alleged abuse,
21 financial exploitation, or neglect is a caregiver or a nonclient resident of the entity,
22 the county elder-adult-at-risk agency may not investigate the report but it shall
23 refer the report within 24 hours after the report is received, excluding Saturdays,
24 Sundays and legal holidays, to the department for investigation. An investigation
25 The department shall coordinate its investigatory efforts with other investigative

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1 agencies or authorities as appropriate. An elder-adult-at-risk agency's response to
2 or another investigative agency's investigation of a report of alleged abuse, financial
3 exploitation, neglect, or self-neglect that is not referred to the department shall be
4 commenced within 24 hours after a report is received, excluding Saturdays, Sundays
5 and legal holidays. ~~An investigation of a report of material abuse shall be~~
6 ~~commenced within 5 days after a report is received, excluding Saturdays, Sundays~~
7 ~~and legal holidays. If a report is referred to the department, pars. (b) to (g) and sub.~~
8 ~~(6) do not apply to the department.~~

9 **SECTION 48.** 46.90 (5) (a) 2. of the statutes is created to read:

10 46.90 (5) (a) 2. If an agent or employee of an elder-adult-at-risk agency
11 required to respond under this subsection is the subject of a report, or if the
12 elder-adult-at-risk agency or an agency under contract with the county department
13 determines that the relationship between the elder-adult-at-risk agency and the
14 agency under contract with the county department would not allow for an unbiased
15 response, the elder-adult-at-risk agency shall, after taking any action necessary to
16 protect the elder adult at risk, notify the department. Upon receipt of the notice, the
17 department or a county department under s. 46.215, 46.22, 51.42, or 51.437
18 designated by the department shall conduct an independent investigation. The
19 powers and duties of a county department making an independent investigation are
20 those given to an elder-adult-at-risk agency under pars. (b) to (f) and sub. (6).

21 **SECTION 49.** 46.90 (5) (b) (intro.) and 1. to 5. of the statutes are amended to read:

22 46.90 (5) (b) (intro.) ~~The scope of the elder-adult-at-risk agency's response or~~
23 another investigative agency's investigation is at the discretion of the investigating
24 agency and may include one or more of the following:

25 1. A visit to the elder person's residence of the elder adult at risk.

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1 2. Observation of the elder person adult at risk, with or without consent of his
2 or her guardian or agent under an activated power of attorney for health care, if any.

3 3. An interview with the elder person. ~~To the extent practicable, this interview~~
4 ~~shall be private~~ adult at risk, in private to the extent practicable, and with or without
5 the consent of his or her guardian or agent under an activated power of attorney for
6 health care, if any.

7 4. An interview with the guardian or agent under an activated power of
8 attorney for health care, if any, and with any person ~~who takes care~~ caregiver of the
9 elder person adult at risk.

10 5. A review of the treatment and patient health care records of the elder adult
11 at risk.

12 **SECTION 50.** 46.90 (5) (b) 6. of the statutes is created to read:

13 46.90 (5) (b) 6. A review of any financial records of the elder adult at risk that
14 are maintained by a financial institution, as defined in s. 705.01 (3); by an entity, as
15 defined in s. 50.065; by any caregiver of the elder adult at risk; or by a member of the
16 immediate family of the elder adult at risk or caregiver. The records shall be released
17 without informed consent in either of the following circumstances:

18 a. To an elder–adult–at–risk agency or other investigative agency under this
19 section. The financial record holder may release financial record information by
20 initiating contact with the elder–adult–at–risk agency or other investigative agency
21 without first receiving a request for release of the information from the
22 elder–adult–at–risk agency or other investigative agency.

23 b. Under a lawful order of a court of record.

24 **SECTION 51.** 46.90 (5) (br) of the statutes is created to read:

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1 46.90 (5) (br) The elder–adult–at–risk agency or other investigative agency
2 may transport the elder adult at risk for performance of a medical examination by
3 a physician if any of the following applies:

4 1. The elder adult at risk or his or her guardian or agent under an activated
5 power of attorney for health care, if any, consents to the examination.

6 2. The elder adult at risk is incapable of consenting to the examination and one
7 of the following applies:

8 a. The elder adult at risk has no guardian or agent under an activated power
9 of attorney for health care.

10 b. The elder adult at risk has a guardian or an agent under an activated power
11 of attorney for health care, but that guardian or agent is the person suspected of
12 abusing, neglecting, or financially exploiting the elder adult at risk.

13 c. The examination is authorized by order of a court.

14 **SECTION 52.** 46.90 (5) (c) of the statutes is amended to read:

15 46.90 (5) (c) ~~If an investigator so requests, The elder–adult–at–risk agency may~~
16 ~~request~~ a sheriff or police officer ~~shall to~~ accompany the ~~elder–adult–at–risk agency~~
17 ~~investigator or worker~~ during visits to the elder person's residence and shall provide
18 ~~of the elder adult at risk or request~~ other assistance as needed. ~~If the request is made,~~
19 ~~a sheriff or police officer shall accompany the elder–adult–at–risk agency~~
20 ~~investigator or worker to the residence of the elder adult at risk and shall provide~~
21 ~~other assistance as requested or necessary.~~

22 **SECTION 53.** 46.90 (5) (d) 1. of the statutes is renumbered 46.90 (5) (d) and
23 amended to read:

24 46.90 (5) (d) If any ~~a~~ person ~~except the elder person in question~~ interferes with
25 the ~~response or investigation under this subsection or interferes with the delivery of~~

ASSEMBLY BILL 539**SECTION 53**

1 protective services under ch. 55 to the elder adult at risk, the elder-adult-at-risk
2 agency investigator or worker may apply for an order under ch. 813 s. 813.123
3 prohibiting the interference.

4 **SECTION 54.** 46.90 (5) (d) 2. of the statutes is repealed.

5 **SECTION 55.** 46.90 (5) (f) of the statutes is amended to read:

6 46.90 (5) (f) If the investigator elder-adult-at-risk agency worker or
7 investigator or other agency investigator has reason to believe that substantial
8 physical harm, irreparable injury, or death may occur to an elder person adult at risk,
9 the worker or investigator shall ~~immediately notify the protective services agency~~
10 ~~designated under s. 55.02 request immediate assistance in either initiating a~~
11 ~~protective services action under ch. 55 or contact law enforcement or another public~~
12 ~~agency, as appropriate.~~

13 **SECTION 56.** 46.90 (5) (g) of the statutes is repealed.

14 **SECTION 57.** 46.90 (5) (h) of the statutes is created to read:

15 46.90 (5) (h) No person may be held civilly or criminally liable or be found guilty
16 of unprofessional conduct for responding to a report or for participating in or
17 conducting an investigation under this subsection, including the taking of
18 photographs or the conducting of a medical examination, if the response or
19 investigation was performed in good faith and within the scope of his or her authority.

20 **SECTION 58.** 46.90 (5m) (title) and (a) of the statutes are amended to read:

21 46.90 (5m) (title) ~~PROVISION~~ OFFER OF SERVICES AND REFERRAL OF CASES. (a) ~~After~~
22 ~~the investigation is completed~~ Upon responding to a report, the county
23 elder-adult-at-risk agency or the investigating investigative agency shall
24 determine if whether the elder person adult at risk or any other individual involved
25 in the alleged abuse, ~~material abuse~~ financial exploitation, neglect, or self-neglect

ASSEMBLY BILL 539**SECTION 58**

1 is in need of services under this chapter or ch. 47, 49, 51 ~~or~~, 55 or 880. From the
2 appropriation under s. 20.435 (7) (dh), the department shall allocate to selected
3 counties not less than \$25,000 in each fiscal year, and within the limits of these funds
4 and of available state and federal funds and of county funds appropriated to match
5 the state and federal funds, the ~~county~~ elder-adult-at-risk agency shall provide the
6 necessary direct services to the elder person adult at risk or other individual or
7 arrange for the provision of the direct services with other agencies or individuals.
8 Those direct services provided shall be rendered under the least restrictive
9 conditions necessary to achieve their objective.

10 **SECTION 59.** 46.90 (5m) (b) of the statutes is amended to read:

11 46.90 **(5m)** (b) If the ~~county agency designated under sub. (2)~~
12 elder-adult-at-risk agency is not the aging unit, the ~~county~~ elder-adult-at-risk
13 agency in each county shall consult with and accept advice from the aging unit with
14 respect to the distribution of the funds for direct services that are allocated under par.
15 (a).

16 **SECTION 60.** 46.90 (5m) (br) of the statutes is created to read:

17 46.90 **(5m)** (br) If, after responding to a report, the elder-adult-at-risk agency
18 has reason to believe that the elder adult at risk has been the subject of abuse,
19 financial exploitation, neglect, or self-neglect, the elder-adult-at-risk agency may
20 do any of the following:

21 1. Request immediate assistance in initiating a protective services action under
22 ch. 55 or contact an investigative agency, as appropriate.

23 2. Take appropriate emergency action, including emergency protective
24 placement under s. 55.06, if the elder-adult-at-risk agency determines that the

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1 emergency action is in the best interests of the elder adult at risk and the emergency
2 action is the least restrictive appropriate intervention.

3 3. Refer the case to law enforcement officials, as specified in sub. (3) (a), for
4 further investigation or to the district attorney, if the elder–adult–at–risk agency has
5 reason to believe that a crime has been committed.

6 4. Refer the case to the licensing, permitting, registration, or certification
7 authorities of the department or to other regulatory bodies if the residence, facility,
8 or program for the elder adult at risk is or should be licensed, permitted, registered,
9 or certified or is otherwise regulated.

10 5. Refer the case to the department of regulation and licensing if the financial
11 exploitation, neglect, self–neglect, or abuse involves an individual who is required
12 to hold a credential, as defined in s. 440.01 (2) (a), under chs. 440 to 460.

13 6. Bring a petition for a guardianship and protective services or protective
14 placement under ch. 55 or a review of an existing guardianship if necessary to
15 prevent financial exploitation, neglect, self–neglect, or abuse and if the elder adult
16 at risk would otherwise be at risk of serious harm because of an inability to arrange
17 for necessary food, clothing, shelter, or services.

18 **SECTION 61.** 46.90 (5m) (c) of the statutes is amended to read:

19 46.90 (5m) (c) An elder ~~person~~ adult at risk may refuse to accept services unless
20 a guardian authorizes the services. The county elder–adult–at–risk agency or other
21 provider agency shall notify the elder ~~person~~ adult at risk of this right to refuse before
22 providing services.

23 **SECTION 62.** 46.90 (6) (a) of the statutes is renumbered 46.90 (6) (am) and
24 amended to read:

ASSEMBLY BILL 539**SECTION 62**

1 46.90 (6) (am) ~~The county elder-adult-at-risk agency or other investigating~~
2 ~~agency shall prepare a departmental report on each investigation it conducts unless~~
3 ~~the agency finds, at the conclusion of the investigation, that the report of alleged~~
4 ~~abuse, material abuse, neglect or self-neglect is without foundation~~ form of its
5 ~~response under sub. (5) to a report of suspected abuse, financial exploitation, neglect,~~
6 ~~or self-neglect.~~ If an agency other than the county agency conducts the
7 ~~investigation, it the elder-adult-at-risk agency refers the report to an investigative~~
8 ~~agency, the investigative agency shall submit a copy of the investigation report to the~~
9 ~~county agency~~ advise the elder-adult-at-risk agency in writing of its response to the
10 ~~report. The elder-adult-at-risk agency shall maintain records of suspected abuse,~~
11 ~~financial exploitation, neglect, or self-neglect.~~

12 **SECTION 63.** 46.90 (6) (ac) of the statutes is created to read:

13 46.90 (6) (ac) In this subsection:

14 1. “Departmental report form” includes documentation of an
15 elder-adult-at-risk agency’s response to or investigation of a report made under
16 sub. (5) and is the information required to be submitted to the department.

17 2. “Record” includes any document relating to the response, investigation,
18 assessment, and disposition of a report made under this section.

19 **SECTION 64.** 46.90 (6) (b) (intro.) of the statutes is amended to read:

20 46.90 (6) (b) (intro.) ~~Reports of suspected abuse, material abuse, neglect or~~
21 ~~self-neglect and investigation reports under this section~~ Departmental report forms
22 are confidential and may not be released by the county elder-adult-at-risk agency
23 or other investigating investigative agency, except under the following
24 circumstances they may be released:

25 **SECTION 65.** 46.90 (6) (b) 1. of the statutes is amended to read:

ASSEMBLY BILL 539**SECTION 65**

1 46.90 (6) (b) 1. To the elder person and adult at risk, any person named in a
2 departmental report form who is suspected of abusing or, neglecting, or financially
3 exploiting an elder person adult at risk, and the suspect's attorney. These persons
4 may inspect the departmental report ~~on the investigation form~~, except that
5 information identifying the person who initially reported the suspected abuse,
6 material abuse financial exploitation, neglect, or self-neglect, or any other person
7 whose safety might be endangered through disclosure, may not be released.

8 **SECTION 66.** 46.90 (6) (b) 2. of the statutes is amended to read:

9 46.90 (6) (b) 2. To the protective services agency notified or other entity from
10 which assistance is requested under sub. (5) (f). Information obtained under this
11 subdivision shall remain confidential.

12 **SECTION 67.** 46.90 (6) (b) 3. of the statutes is amended to read:

13 46.90 (6) (b) 3. To an individual, organization, or agency designated by the
14 department or as required by law for the purposes of management audits or program
15 monitoring and evaluation. Information obtained under this subdivision shall
16 remain confidential and ~~shall~~ may not be used in any way that discloses the names
17 of or other identifying information about the individuals involved.

18 **SECTION 68.** 46.90 (6) (b) 4. of the statutes is amended to read:

19 46.90 (6) (b) 4. For purposes of research, if the research project has been
20 approved by the department or the county elder-adult-at-risk agency and the
21 researcher has provided assurances that the information will be used only for the
22 purposes for which it was provided to the researcher, the information will not be
23 released to a person not connected with the study under consideration, and the final
24 product of the research will not reveal information that may serve to identify the
25 individuals involved. ~~Such~~ The information shall remain confidential. In approving

ASSEMBLY BILL 539**SECTION 68**

1 research projects the use of information under this subdivision, the department shall
2 impose any additional safeguards needed to prevent unwarranted disclosure of
3 information.

4 **SECTION 69.** 46.90 (6) (b) 5. of the statutes is amended to read:

5 46.90 **(6)** (b) 5. Pursuant to Under a lawful order of a court of record.

6 **SECTION 70.** 46.90 (6) (b) 6. of the statutes is amended to read:

7 46.90 **(6)** (b) 6. To any agency or individual that provides direct services under
8 sub. (5m), including an attending physician for purposes of diagnosis and treatment,
9 and within the department to coordinate treatment for mental illness,
10 developmental disabilities, alcoholism, or drug abuse of individuals committed to or
11 under the supervision of the department. Information obtained under this
12 subdivision shall remain confidential.

13 **SECTION 71.** 46.90 (6) (b) 7. of the statutes is amended to read:

14 46.90 **(6)** (b) 7. To the guardian of the elder person adult at risk or the guardian
15 of any person named in a report who is suspected of abusing or, neglecting, or
16 financially exploiting an elder person adult at risk. These persons may inspect the
17 departmental report ~~on the investigation form~~, except that information identifying
18 the person who initially reported the suspected abuse, material abuse financial
19 exploitation, neglect, or self-neglect, or any other person whose safety might be
20 endangered through disclosure, may not be released.

21 **SECTION 72.** 46.90 (6) (b) 9. and 10. of the statutes are created to read:

22 46.90 **(6)** (b) 9. To a federal agency, state governmental agency, agency of any
23 other state, or local governmental unit in this state or any other state that has a need
24 for a departmental report form in order to carry out its responsibility to protect elder
25 adults at risk from abuse, financial exploitation, neglect, or self-neglect.

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1 10. To the reporter who made a report in his or her professional capacity,
2 regarding action to be taken to protect or provide services to the alleged victim of
3 abuse, financial exploitation, neglect, or self-neglect.

4 **SECTION 73.** 46.90 (6) (bd) of the statutes is created to read:

5 46.90 **(6)** (bd) If a person requesting a departmental report form is not one of
6 the persons or entities specified in par. (b), the elder-adult-at-risk agency may
7 release information indicating only whether or not a report was received and
8 whether or not statutory responsibility was fulfilled.

9 **SECTION 74.** 46.90 (6) (br) of the statutes is created to read:

10 46.90 **(6)** (br) Notwithstanding par. (b) 1. to 10., an elder-adult-at-risk agency
11 or an investigative agency may not release departmental report forms under this
12 section if any of the following applies:

13 1. The elder-adult-at-risk agency determines that the release would be
14 contrary to the best interests of the elder adult at risk who is the subject of the
15 departmental report form or of another person residing with the subject of the
16 departmental report form, or the release is likely to cause mental, emotional, or
17 physical harm to the subject of the departmental report form or to any other
18 individual.

19 2. The district attorney determines that disclosure of the information would
20 jeopardize any ongoing or future criminal investigation or prosecution or would
21 jeopardize a defendant's right to a fair trial.

22 3. The elder-adult-at-risk agency determines that disclosure would
23 jeopardize ongoing or future civil investigations or proceedings or would jeopardize
24 the fairness of such a legal proceeding.

25 **SECTION 75.** 46.90 (6) (bt) of the statutes is created to read:

ASSEMBLY BILL 539**SECTION 75**

1 46.90 **(6)** (bt) Subject to pars. (b), (bd), (br), (bv), and (bw), records under this
2 subsection are confidential and may not be released by the elder–adult–at–risk
3 agency or other investigative agency, except under the following circumstances, upon
4 request:

5 1. To the elder adult at risk who is the alleged victim named in the record.

6 2. To the legal guardian, conservator, or other legal representative of the elder
7 adult at risk who is the alleged victim named in the record, if the legal guardian,
8 conservator, or other legal representative of the alleged victim is not the alleged
9 perpetrator of the abuse, financial exploitation, or neglect.

10 3. To law enforcement officials and agencies in accordance with the policy
11 developed under sub. (3) (a) or with investigations conducted under sub. (5), or a
12 district attorney, for purposes of investigation or prosecution.

13 4. To the department, under s. 51.03 (2), or for death investigations under s.
14 50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for
15 death investigations under s. 51.64 (2) (a).

16 5. To an employee of a county department under s. 51.42 or 51.437 that is
17 providing services either to the elder adult at risk who is the alleged victim named
18 in the record or to the alleged perpetrator of abuse, to determine whether the alleged
19 victim should be transferred to a less restrictive or more appropriate treatment
20 modality or facility.

21 6. To a court, tribal court, or state governmental agency for a proceeding
22 relating to the licensure or regulation of an individual or entity regulated or licensed
23 by the state governmental agency, that was an alleged perpetrator of abuse, financial
24 exploitation, or neglect.

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1 7. To the department, for management, audit, program monitoring,
2 evaluation, billing, or collection purposes.

3 8. To the attorney or guardian ad litem for the elder adult at risk who is the
4 alleged victim named in the record, to assist in preparing for any proceeding under
5 ch. 48, 51, 55, 813, 880, 971, or 975 pertaining to the alleged victim.

6 9. To a coroner, medical examiner, pathologist, or other physician investigating
7 the cause of death of an elder adult at risk that is unexplained or unusual or is
8 associated with unexplained or suspicious circumstances.

9 10. To staff members of the protection and advocacy agency designated under
10 s. 51.62 and the board on aging and long-term care under s. 16.009.

11 11. To an agency, including a probation or parole agency, that is legally
12 responsible for the supervision of an alleged perpetrator of abuse, neglect, or
13 financial exploitation of an elder adult at risk.

14 12. To a grand jury, if it determines that access to specified records is necessary
15 for the conduct of its official business.

16 13. Under a lawful order of a court of record.

17 **SECTION 76.** 46.90 (6) (bv), (bw) and (by) of the statutes are created to read:

18 46.90 **(6)** (bv) The identity of a person making a report of alleged abuse, neglect,
19 self-neglect, or financial exploitation shall be deleted from any record prior to its
20 release under par. (bt) or from any departmental report form prior to its release
21 under par. (b). The identity of any reporter may only be released with the written
22 consent of the reporter or under a lawful order of a court of record.

23 (bw) A person to whom a departmental report form or a record is disclosed
24 under this subsection may not further disclose it, except to the persons and for the
25 purposes specified in this subsection.

ASSEMBLY BILL 539**SECTION 76**

1 (by) A custodian of records or departmental report forms incurs no civil or
2 criminal liability under this subsection and may not be found guilty of unprofessional
3 conduct for the release or nonrelease of records or departmental report forms in
4 accordance with this subsection while acting in good faith and within the scope of his
5 or her authority.

6 **SECTION 77.** 46.90 (6) (c) 1. of the statutes is renumbered 46.90 (9) (a) and
7 amended to read:

8 46.90 (9) (a) Any person, including the state or any political subdivision of the
9 state, violating this subsection shall be sub. (6) is liable to any person damaged as
10 a result of the violation for such damages as may be proved, together with exemplary
11 damages of not less than \$100 nor more than \$500 for each violation and such the
12 costs and reasonable actual attorney fees as may be that are incurred by the person
13 damaged. ~~A custodian of records incurs no liability under this subdivision for the~~
14 ~~release of records in accordance with this subsection while acting in good faith.~~

15 **SECTION 78.** 46.90 (6) (c) 2. of the statutes is renumbered 46.90 (9) (b) and
16 amended to read:

17 46.90 (9) (b) In any action brought under ~~subd. 1. par. (a)~~ in which the court
18 determines that the violator acted in a manner that was knowing and willful, the
19 violator shall be liable for such damages as may be proved together with exemplary
20 damages of not less than \$500 nor more than \$1,000 for each violation, together with
21 costs and reasonable actual attorney fees as may be incurred. It is not a prerequisite
22 to an action under ~~this paragraph~~ par. (a) that the plaintiff suffer or be threatened
23 with actual damages.

24 **SECTION 79.** 46.90 (6) (c) 3. of the statutes is renumbered 46.90 (9) (c) and
25 amended to read:

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1 46.90 (9) (c) An individual may bring an action to enjoin any violation of this
2 subsection sub. (6) or to compel compliance with this subsection sub. (6), and may in
3 the same action seek damages as provided in this paragraph subsection. The
4 individual may recover costs and reasonable actual attorney fees as ~~may be~~ incurred
5 in the action, if he or she prevails.

6 **SECTION 80.** 46.90 (7) of the statutes is amended to read:

7 46.90 (7) EXCEPTION. Nothing in this section shall may be construed to mean
8 that a person is abused, financially exploited, neglected or in need of direct or
9 protective services solely because he or she consistently relies upon treatment by
10 spiritual means through prayer for healing in lieu of medical care in accordance with
11 his or her religious tradition.

12 **SECTION 81.** 46.90 (8) (a) of the statutes is amended to read:

13 46.90 (8) (a) The department shall develop a plan to assist ~~county~~
14 elder-adult-at-risk agencies in determining appropriate responses to reports of
15 abuse, ~~material abuse~~ financial exploitation, neglect, or self-neglect.

16 **SECTION 82.** 46.90 (8) (b) of the statutes is amended to read:

17 46.90 (8) (b) The department shall prepare and distribute sample
18 departmental report forms for use by ~~county~~ elder-adult-at-risk agencies.

19 **SECTION 83.** 46.90 (8) (c) and (d) of the statutes are amended to read:

20 46.90 (8) (c) The department shall collect statistical information from each
21 county pertaining to each reported case of abuse, ~~material abuse~~ financial
22 exploitation, neglect, or self-neglect. The department may require ~~investigators~~
23 elder-adult-at-risk agency workers or investigators to submit ~~statements~~
24 departmental report forms to the department that summarize the information being
25 reported. These ~~summary statements~~ departmental report forms may not name or

ASSEMBLY BILL 539**SECTION 83**

1 otherwise identify ~~individual persons~~ individuals. The department shall use this
2 information to review the effectiveness of this section, to plan program changes, and
3 to formulate reports.

4 (d) The department shall develop and disseminate information on elder
5 ~~elder-adult-at-risk~~ abuse and the elder abuse reporting system under this section.
6 The department shall also develop informational materials to be used by county
7 ~~elder-adult-at-risk~~ agencies regarding elder abuse of elder adults at risk and
8 regarding the elder abuse reporting system. The department shall solicit
9 contributions of labor, materials, and expertise from private sources to assist in
10 developing the informational materials.

11 **SECTION 84.** 46.90 (9) (title) and (e) of the statutes are created to read:

12 46.90 **(9)** (title) PENALTIES.

13 (e) Whoever intentionally violates sub. (4) (ad) by failure to report as required
14 may be fined not more than \$500 or imprisoned not more than 6 months or both.

15 **SECTION 92.** 51.01 (2g) (b) of the statutes is amended to read:

16 51.01 **(2g)** (b) “Brain injury” does not include alcoholism, Alzheimer’s disease
17 as specified under s. 46.87 (1) (a), or the infirmities of aging as specified under s. 55.01
18 ~~(3) degenerative brain disorder, as defined in s. 55.01 (1v).~~

19 **SECTION 93.** 51.01 (3g) of the statutes is amended to read:

20 51.01 **(3g)** “Chronic mental illness” means a mental illness ~~which~~ that is severe
21 in degree and persistent in duration, ~~which~~ that causes a substantially diminished
22 level of functioning in the primary aspects of daily living and an inability to cope with
23 the ordinary demands of life, ~~which~~ that may lead to an inability to maintain stable
24 adjustment and independent functioning without long-term treatment and support,
25 and ~~which~~ that may be of lifelong duration. “Chronic mental illness” includes

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1 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
2 psychiatric diagnostic categories, but does not include infirmities of aging
3 degenerative brain disorder, as defined in s. 55.01 (1v), or a primary diagnosis of
4 mental retardation or of alcohol or drug dependence.

5 **SECTION 94.** 51.01 (5) (a) of the statutes is amended to read:

6 51.01 (5) (a) “Developmental disability” means a disability attributable to
7 brain injury, cerebral palsy, epilepsy, autism, Prader–Willi syndrome, mental
8 retardation, or another neurological condition closely related to mental retardation
9 or requiring treatment similar to that required for mental retardation, which has
10 continued or can be expected to continue indefinitely and constitutes a substantial
11 handicap to the afflicted individual. “Developmental disability” does not include
12 senility which is primarily caused by the process of aging or the infirmities of aging
13 degenerative brain disorder, as defined in s. 55.01 (1v).

14 **SECTION 95.** 51.30 (4) (b) 17. of the statutes is amended to read:

15 51.30 (4) (b) 17. To the county elder–adult–at–risk agency designated under
16 s. 46.90 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90
17 (4) (a) and (5), to the county department, as defined in s. 48.02 (2g), or the sheriff or
18 police department for the purposes of s. 48.981 (2) and (3), or to the county protective
19 services adult–at–risk agency designated under s. 55.02 for purposes of s. 55.043.
20 The treatment record holder may release treatment record information by initiating
21 contact with the county protective services elder–adult–at–risk agency,
22 adult–at–risk agency, or county department, as defined in s. 48.02 (2g), without first
23 receiving a request for release of the treatment record from the county protective
24 services elder–adult–at–risk agency, adult–at–risk agency, or county department.

25 **SECTION 96.** 51.42 (3) (e) of the statutes is amended to read:

ASSEMBLY BILL 539**SECTION 96**

1 51.42 **(3)** (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
2 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
3 (3) (c) and 938.78 (2) (a), any subunit of a county department of community programs
4 or tribal agency acting under this section may exchange confidential information
5 about a client, without the informed consent of the client, with any other subunit of
6 the same county department of community programs or tribal agency, with a
7 resource center, a care management organization, or a family care district, or with
8 any person providing services to the client under a purchase of services contract with
9 the county department of community programs or tribal agency or with a resource
10 center, care management organization, or family care district, if necessary to enable
11 an employee or service provider to perform his or her duties, or to enable the county
12 department of community programs or tribal agency to coordinate the delivery of
13 services to the client. Any agency releasing information under this paragraph shall
14 document that a request was received and what information was provided.

15 **SECTION 97.** 51.437 (4r) (b) of the statutes is amended to read:

16 51.437 **(4r)** (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
17 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a),
18 any subunit of the a county department of developmental disabilities services or
19 tribal agency acting under this section may exchange confidential information about
20 a client, without the informed consent of the client, with any other subunit of the
21 same county department of developmental disabilities services or tribal agency, with
22 a resource center, a care management organization, or a family care district, or with
23 any person providing services to the client under a purchase of services contract with
24 the county department of developmental disabilities services or tribal agency or with
25 a resource center, a care management organization, or a family care district, if

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1 necessary to enable an employee or service provider to perform his or her duties, or
2 to enable the county department of developmental disabilities services or tribal
3 agency to coordinate the delivery of services to the client. Any agency releasing
4 information under this paragraph shall document that a request was received and
5 what information was provided.

6 **SECTION 98.** 51.62 (1) (ag) of the statutes is repealed and recreated to read:

7 51.62 (1) (ag) “Abuse” has the meaning given in s. 46.90 (1) (a).

8 **SECTION 99.** 51.62 (1) (ar) of the statutes is created to read:

9 51.62 (1) (ar) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

10 **SECTION 100.** 51.62 (1) (br) of the statutes is repealed and recreated to read:

11 51.62 (1) (br) “Neglect” has the meaning given in s. 46.90 (1) (f).

12 **SECTION 101.** 51.62 (3) (a) 2m. of the statutes is amended to read:

13 51.62 (3) (a) 2m. Have immediate access to any ~~person~~ individual with mental
14 illness or developmental disability, regardless of age, who has requested services or
15 on whose behalf services have been requested from the protection and advocacy
16 agency or concerning whom the protection and advocacy agency has reasonable
17 cause to believe that abuse, neglect, financial exploitation, or a violation of rights of
18 the individual has occurred.

19 **SECTION 102.** 55.001 of the statutes is amended to read:

20 **55.001 Declaration of policy.** The legislature recognizes that many citizens
21 of the state, because of ~~the infirmities of aging~~, chronic mental illness, mental
22 ~~retardation, other~~ degenerative brain disorders, developmental disabilities, or like
23 incapacities incurred at any age, are in need of protective services. Except as
24 provided in s. 49.45 (30m) (a), these services should, to the maximum degree of
25 feasibility under programs, services and resources that the county board of

ASSEMBLY BILL 539**SECTION 102**

1 supervisors is reasonably able to provide within the limits of available state and
2 federal funds and of county funds required to be appropriated to match state funds,
3 allow the individual the same rights as other citizens, and at the same time protect
4 the individual from financial exploitation, abuse and ~~degrading treatment, neglect,~~
5 ~~and self-neglect~~. This chapter is designed to establish those services and assure
6 their availability to all persons individuals when in need of them, and to place the
7 least possible restriction on personal liberty and exercise of constitutional rights
8 consistent with due process and protection from abuse, financial exploitation and,
9 neglect, and self-neglect.

10 **SECTION 103.** 55.01 (1) of the statutes is repealed and recreated to read:

11 55.01 (1) “Abuse” has the meaning given in s. 46.90 (1) (a).

12 **SECTION 104.** 55.01 (1e) of the statutes is created to read:

13 55.01 (1e) “Adult at risk” means any adult who has a physical or mental
14 condition that substantially impairs his or her ability to care for his or her needs and
15 who has experienced, is currently experiencing, or is at risk of experiencing abuse,
16 neglect, self-neglect, or financial exploitation.

17 **SECTION 105.** 55.01 (1f) of the statutes is created to read:

18 55.01 (1f) “Adult-at-risk agency” means the agency designated by the county
19 board of supervisors under s. 55.043 (1) to receive, respond to, and investigate reports
20 of abuse, neglect, self-neglect, and financial exploitation under s. 55.043.

21 **SECTION 106.** 55.01 (1m) of the statutes is amended to read:

22 55.01 (1m) “Bodily harm” has the meaning given in s. ~~939.22 (4)~~ 46.90 (1) (aj).

23 **SECTION 107.** 55.01 (1p) of the statutes is repealed and recreated to read:

24 55.01 (1p) “Caregiver” has the meaning given in s. 46.90 (1) (an).

25 **SECTION 108.** 55.01 (1t) of the statutes is repealed.

ASSEMBLY BILL 539**SECTION 109**

1 **SECTION 109.** 55.01 (1v) of the statutes is created to read:

2 55.01 (1v) “Degenerative brain disorder” means the loss or dysfunction of an
3 individual’s brain cells to the extent that he or she is substantially impaired in his
4 or her ability to provide adequately for his or her own care or custody.

5 **SECTION 110.** 55.01 (2) of the statutes is amended to read:

6 55.01 (2) “Developmentally disabled person” means any individual having a
7 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
8 another neurological condition closely related to mental retardation or requiring
9 treatment similar to that required for mentally retarded individuals, which has
10 continued or can be expected to continue indefinitely, substantially impairs the
11 individual from adequately providing for his or her own care or custody, and
12 constitutes a substantial handicap to the afflicted individual. The term does not
13 include a person affected by senility which is primarily caused by the process of aging
14 or the infirmities of aging with degenerative brain disorder.

15 **SECTION 111.** 55.01 (2s) of the statutes is created to read:

16 55.01 (2s) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

17 **SECTION 112.** 55.01 (3) of the statutes is repealed.

18 **SECTION 113.** 55.01 (4g) of the statutes is created to read:

19 55.01 (4g) “Investigative agency” has the meaning given in s. 46.90 (1) (er).

20 **SECTION 114.** 55.01 (4p) of the statutes is repealed.

21 **SECTION 115.** 55.01 (4r) of the statutes is repealed and recreated to read:

22 55.01 (4r) “Neglect” has the meaning given in s. 46.90 (1) (f).

23 **SECTION 116.** 55.01 (6) of the statutes is created to read:

24 55.01 (6) “Self-neglect” has the meaning given in s. 46.90 (1) (g).

25 **SECTION 117.** 55.01 (6d) of the statutes is created to read:

ASSEMBLY BILL 539**SECTION 117**

1 55.01 **(6d)** “State governmental agency” has the meaning given for “agency” in
2 s. 16.417 (1) (a).

3 **SECTION 118.** 55.01 (6g) of the statutes is created to read:

4 55.01 **(6g)** “State official” has the meaning given in s. 46.90 (1) (gr).

5 **SECTION 119.** 55.01 (7) of the statutes is repealed.

6 **SECTION 120.** 55.02 of the statutes is amended to read:

7 **55.02 Protective service system; establishment.** The department shall
8 develop a statewide system of protective service services for ~~mentally retarded and~~
9 ~~other developmentally disabled persons, for aged infirm persons, for persons with~~
10 degenerative brain disorders, chronically mentally ill persons, and for persons with
11 other like incapacities incurred at any age, in accordance with rules promulgated by
12 the department. The protective service system shall be designed to encourage
13 independent living and to avoid protective placement whenever possible. The
14 system shall use the planning and advice of agencies, including the county
15 department under s. 46.215, 46.22, 46.23, 51.42, or 51.437. The chairperson of each
16 county board of supervisors shall designate a county department under s. 46.215,
17 46.22, 51.42, or 51.437 that is providing services in his or her county or a joint
18 mechanism of these county departments to have the responsibility for local planning
19 for the protective service system. ~~The chairperson of the Milwaukee County board~~
20 ~~of supervisors~~ Each county board shall designate the county department under s.
21 ~~46.215~~ an agency to serve as the county protective services adult-at-risk agency for
22 purposes of s. 55.043. The department and these county departments shall cooperate
23 in developing a coordinated system of services. The department shall provide direct
24 services and enter into contracts with any responsible public or private agency for
25 provision of protective services. In each county, the county department designated

ASSEMBLY BILL 539**SECTION 120**

1 under this section shall determine the reporting requirements applicable to the
2 county under s. 880.38 (3).

3 **SECTION 121.** 55.043 (title) of the statutes is amended to read:

4 **55.043** (title) **County protective services Adult-at-risk agency.**

5 **SECTION 122.** 55.043 (1) (title) of the statutes is repealed.

6 **SECTION 123.** 55.043 (1) (a) (intro.) of the statutes is renumbered 55.043 (1r)
7 (a) 1g. and amended to read:

8 55.043 (1r) (a) 1g. ~~If a county protective services~~ Except as otherwise provided,
9 if an adult-at-risk agency has probable cause reason to believe that there is
10 misappropriation of property or an adult at risk has been the subject of abuse,
11 financial exploitation, neglect, or abuse of a vulnerable adult, the county protective
12 services self-neglect, the adult-at-risk agency may conduct an investigation in
13 Milwaukee County respond, including by conducting an investigation, to determine
14 if the vulnerable adult in question whether the adult at risk is in need of protective
15 services. The county protective services agency shall conduct the investigation in
16 accordance with standards established by the department for conducting the
17 investigations. The investigation shall include at least one of the following: If an
18 adult-at-risk agency has reason to believe that there is abuse, financial exploitation,
19 neglect, or self-neglect of an adult at risk who is a client, as defined in s. 50.065 (1)
20 (b), of an entity, as defined in s. 50.065 (1) (c), and if the person suspected of
21 perpetrating the alleged abuse, financial exploitation, or neglect is a caregiver or
22 nonclient resident of the entity, the adult-at-risk agency shall refer the report
23 within 24 hours after the report is received to the department for investigation. The
24 department shall coordinate its investigatory efforts with other investigative
25 agencies or authorities as appropriate. An adult-at-risk agency's response to or

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1 another investigative agency's investigation of a report of abuse, financial
2 exploitation, neglect, or self-neglect that is not referred to the department shall be
3 commenced within 24 hours after a report is received, excluding Saturdays,
4 Sundays, and legal holidays.

5 **SECTION 124.** 55.043 (1) (a) 1. of the statutes is renumbered 55.043 (1r) (b) 2.
6 and amended to read:

7 55.043 (1r) (b) 2. Observation of ~~or an interview with the vulnerable adult, in~~
8 ~~private to the extent practicable, and~~ the adult at risk, with or without consent of his
9 or her guardian or agent under an activated power of attorney for health care, if any.

10 **SECTION 125.** 55.043 (1) (a) 2. of the statutes is renumbered 55.043 (1r) (b) 1.
11 and amended to read:

12 55.043 (1r) (b) 1. A visit to the residence of the vulnerable adult at risk.

13 **SECTION 126.** 55.043 (1) (a) 3. of the statutes is renumbered 55.043 (1r) (b) 4.
14 and amended to read:

15 55.043 (1r) (b) 4. An interview with the guardian or agent under an activated
16 power of attorney for health care, if any, and with the caretaker, ~~if any,~~ any caregiver
17 of the vulnerable adult at risk.

18 **SECTION 127.** 55.043 (1) (a) 4. of the statutes is renumbered 55.043 (1r) (b) 5.
19 and amended to read:

20 55.043 (1r) (b) 5. A review of the treatment and patient health care records of
21 the vulnerable adult at risk.

22 **SECTION 128.** 55.043 (1) (a) 5. of the statutes is renumbered 55.043 (1r) (b) 6.
23 (intro.) and amended to read:

24 55.043 (1r) (b) 6. (intro.) A review of those any financial records, ~~if any,~~ of the
25 vulnerable adult at risk that are maintained by the caretaker ~~or landlord~~ a financial

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1 institution, as defined in s. 705.01 (3); by an entity, as defined in s. 50.065 (1) (c); by
2 any caregiver of the vulnerable adult at risk; or by a member of the immediate family
3 of the vulnerable adult, the caretaker or the landlord. at risk. The records shall be
4 released without informed consent in either of the following circumstances:

5 **SECTION 129.** 55.043 (1) (b) (intro.) of the statutes is renumbered 55.043 (1r)
6 (c) (intro.) and amended to read:

7 55.043 (1r) (c) (intro.) The ~~county protective services~~ adult-at-risk agency or
8 other investigative agency may transport the vulnerable adult at risk for
9 performance of a medical examination by a physician if any of the following applies:

10 **SECTION 130.** 55.043 (1) (b) 1. of the statutes is renumbered 55.043 (1r) (c) 1.
11 and amended to read:

12 55.043 (1r) (c) 1. The vulnerable adult at risk or his or her guardian or agent
13 under an activated power of attorney for health care, if any, consents to the
14 examination.

15 **SECTION 131.** 55.043 (1) (b) 2. (intro.) of the statutes is renumbered 55.043 (1r)
16 (c) 2. (intro.) and amended to read:

17 55.043 (1r) (c) 2. (intro.) The vulnerable adult at risk is incapable of consenting
18 to the examination and one of the following applies:

19 **SECTION 132.** 55.043 (1) (b) 2. a. of the statutes is renumbered 55.043 (1r) (c)
20 2. a. and amended to read:

21 55.043 (1r) (c) 2. a. The vulnerable adult at risk has no guardian or agent under
22 an activated power of attorney for health care.

23 **SECTION 133.** 55.043 (1) (b) 2. b. of the statutes is renumbered 55.043 (1r) (c)
24 2. c. and amended to read:

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1 55.043 (1r) (c) 2. c. ~~The vulnerable adult's guardian refuses to consent to the~~
2 ~~examination, but the examination is authorized by order of a court.~~

3 **SECTION 134.** 55.043 (1d) of the statutes is created to read:

4 55.043 (1d) ADULT-AT-RISK AGENCY DESIGNATION. Each county board shall
5 designate an agency as the adult-at-risk agency for the purposes of this section.

6 **SECTION 135.** 55.043 (1g) of the statutes is created to read:

7 55.043 (1g) ADULT-AT-RISK AGENCY DUTIES. (a) Each adult-at-risk agency shall
8 develop a policy for notifying other investigative agencies, including law
9 enforcement officials in appropriate cases, and shall establish an adult-at-risk
10 abuse reporting system to carry out the purposes of this section. Each adult-at-risk
11 agency shall enter into a memorandum of understanding regarding the operation of
12 the system with the county department under s. 46.215 or 46.22 and with any private
13 or public agency, including a county department under s. 51.42 or 51.437, within the
14 county that is participating in the adult-at-risk abuse reporting system. The
15 memorandum of understanding shall, at a minimum, identify the agencies that are
16 responsible for the investigation of reports of abuse, financial exploitation, neglect,
17 or self-neglect of adults at risk and for the provision of specific direct services.

18 (b) Each adult-at-risk agency shall receive reports of abuse, financial
19 exploitation, neglect, or self-neglect of adults at risk.

20 (c) Each adult-at-risk agency shall publicize the existence of an adult-at-risk
21 abuse reporting system in the county and shall provide a publicized telephone
22 number that can be used by persons wishing to report suspected cases of abuse,
23 financial exploitation, neglect, or self-neglect of adults at risk. Each adult-at-risk
24 agency shall also provide a telephone number that can be used by persons to make
25 reports after the adult-at-risk agency's regular business hours.

ASSEMBLY BILL 539**SECTION 136**

1 **SECTION 136.** 55.043 (1m) of the statutes is created to read:

2 55.043 **(1m)** REPORTING. (a) The following persons shall file reports as specified
3 in par. (b):

4 1. An employee of any entity that is licensed, certified, or approved by or
5 registered with the department.

6 3. A health care provider, as defined in s. 155.01 (7).

7 4. A social worker, professional counselor, or marriage and family therapist
8 certified under ch. 457.

9 (b) Except as provided in par. (be), a person specified in par. (a) who has seen
10 an adult at risk in the course of the person's professional duties shall file a report with
11 the county department, the adult-at-risk agency, a state or local law enforcement
12 agency, the department, or the board on aging and long-term care if the adult at risk
13 has requested the person to make the report, or if the person has reasonable cause
14 to believe that any of the following situations exist:

15 1. The adult at risk is at imminent risk of serious bodily harm, death, sexual
16 assault, or significant property loss and is unable to make an informed judgment
17 about whether to report the risk.

18 2. An adult at risk other than the subject of the report is at risk of serious bodily
19 harm, death, sexual assault, or significant property loss inflicted by a suspected
20 perpetrator.

21 (be) A person specified in par. (a) to whom any of the following applies is not
22 required to file a report as provided in par. (b):

23 1. If the person believes that filing a report would not be in the best interest
24 of the adult at risk. If the person so believes, the person shall document the reasons
25 for this belief in the case file that the person maintains on the adult at risk.

ASSEMBLY BILL 539**SECTION 136**

1 2. If a health care provider provides treatment by spiritual means through
2 prayer for healing in lieu of medical care in accordance with his or her religious
3 tradition and his or her communications with patients are required by his or her
4 religious denomination to be held confidential.

5 (br) Any person, including an attorney or a person working under the
6 supervision of an attorney, may report to the county department, adult-at-risk
7 agency, a state or local law enforcement agency, the department, or the board on
8 aging and long-term care that he or she believes that abuse, financial exploitation,
9 neglect, or self-neglect of an adult at risk has occurred if the person is aware of facts
10 or circumstances that would lead a reasonable person to believe or suspect that
11 abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred.
12 The person shall indicate the facts and circumstances of the situation as part of the
13 report.

14 (c) 1. a. No person may discharge or otherwise retaliate or discriminate against
15 any person for reporting in good faith under this subsection.

16 b. No person may discharge or otherwise retaliate or discriminate against any
17 individual on whose behalf another person has reported in good faith under this
18 subsection.

19 d. Any discharge of a person or act of retaliation or discrimination that is taken
20 against a person who makes a report under this subsection, within 120 days after the
21 report is made, establishes a rebuttable presumption that the discharge or act is
22 made in response to the report. This presumption may be rebutted by a
23 preponderance of evidence that the discharge or act was not made in response to the
24 report.

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1 2. b. Any employee of an employer who is discharged or otherwise
2 discriminated against may file a complaint with the department of workforce
3 development under s. 106.54 (5).

4 c. Any person not described in subd. 2. b. who is retaliated or discriminated
5 against in violation of subd. 1. a. or b. may commence an action in circuit court for
6 damages incurred as a result of the violation.

7 (d) No person may be held civilly or criminally liable or be found guilty of
8 unprofessional conduct for reporting in good faith under this subsection, or for filing
9 a report with an agency not listed in par. (b) (intro.) or (br) if the person had a good
10 faith belief that the report was filed correctly with one of the listed agencies.

11 (e) If a report under par. (b) or (br) is made to a state official, the state official
12 shall refer the report to the appropriate adult-at-risk agency. The requirement
13 under this paragraph does not apply to an employee of the board on aging and
14 long-term care who determines that his or her referral would be in violation of 42
15 USC 3058g (d).

16 (f) Any person making a report under this subsection is presumed to have
17 reported in good faith.

18 **SECTION 137.** 55.043 (1r) (title) of the statutes is created to read:

19 55.043 (1r) (title) RESPONSE AND INVESTIGATION.

20 **SECTION 138.** 55.043 (1r) (a) 2. of the statutes is created to read:

21 55.043 (1r) (a) 2. If an agent or employee of an adult-at-risk agency required
22 to refer under this subsection is the subject of a report, or if the adult-at-risk agency
23 or an agency under contract with the county department determines that the
24 relationship between the adult-at-risk agency and the agency under contract with
25 the county department would not allow for an unbiased response, the adult-at-risk

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1 agency shall, after taking any action necessary to protect the adult at risk, notify the
2 department. Upon receipt of the notice, the department or a county department
3 under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct
4 an independent investigation. The powers and duties of a county department
5 making the independent investigation are those given to an adult-at-risk agency
6 under pars. (b) to (g) and sub. (6).

7 **SECTION 139.** 55.043 (1r) (b) (intro.) of the statutes is created to read:

8 55.043 (1r) (b) (intro.) The adult-at-risk agency's response or another
9 investigative agency's investigation may include one or more of the following:

10 **SECTION 140.** 55.043 (1r) (b) 3. of the statutes is created to read:

11 55.043 (1r) (b) 3. An interview with the adult at risk, in private to the extent
12 practicable, and with or without consent of his or her guardian or agent under an
13 activated power of attorney for health care, if any.

14 **SECTION 141.** 55.043 (1r) (b) 6. a. of the statutes is created to read:

15 55.043 (1r) (b) 6. a. To an adult-at-risk agency or other investigative agency
16 under this section. The financial record holder may release financial record
17 information by initiating contact with the adult-at-risk agency or other
18 investigative agency without first receiving a request for release of the information
19 from the adult-at-risk agency or other investigative agency.

20 **SECTION 142.** 55.043 (1r) (b) 6. b. of the statutes is created to read:

21 55.043 (1r) (b) 6. b. Under a lawful order of a court of record.

22 **SECTION 143.** 55.043 (1r) (c) 2. b. of the statutes is created to read:

23 55.043 (1r) (c) 2. b. The adult at risk has a guardian or agent under an activated
24 power of attorney for health care, but that guardian or agent is the person suspected
25 of abusing, neglecting, or financially exploiting the adult at risk.

ASSEMBLY BILL 539**SECTION 144**

1 **SECTION 144.** 55.043 (1r) (d) of the statutes is created to read:

2 55.043 **(1r)** (d) No person may be held civilly or criminally liable or be found
3 guilty of unprofessional conduct for responding to a report or for participating in or
4 conducting an investigation under this subsection, including the taking of
5 photographs or conducting of a medical examination, if the response or investigation
6 was performed in good faith and within the scope of his or her authority.

7 **SECTION 145.** 55.043 (2) of the statutes is renumbered 55.043 (2) (a) and
8 amended to read:

9 55.043 **(2)** (a) ~~The county protective services~~ adult-at-risk agency may request
10 a sheriff or police officer to accompany the adult-at-risk agency investigator or
11 worker during visits to the residence of the ~~vulnerable adult~~ adult at risk or request
12 other assistance as needed. If the request is made, a sheriff or police officer shall
13 accompany the adult-at-risk agency investigator ~~of the county protective services~~
14 agency or worker to the residence of the ~~vulnerable adult~~ adult at risk and shall
15 provide other assistance as requested or necessary.

16 **SECTION 146.** 55.043 (2) (b) of the statutes is created to read:

17 55.043 **(2)** (b) If the adult-at-risk agency worker or investigator or other
18 agency investigator has reason to believe that substantial physical harm,
19 irreparable injury, or death may occur to an adult at risk, the worker or investigator
20 shall either initiate a protective services action under this chapter or contact law
21 enforcement or another public agency, as appropriate.

22 **SECTION 147.** 55.043 (3) of the statutes is amended to read:

23 55.043 **(3)** **RESTRAINING ORDER; INJUNCTION.** If a person ~~other than the~~
24 ~~vulnerable adult~~ interferes with the response or investigation under sub. (1) (1r) or
25 interferes with the delivery of protective services under this chapter to the

ASSEMBLY BILL 539**SECTION 147**

1 vulnerable adult at risk, the county protective services adult-at-risk agency
2 investigator or worker may obtain a restraining apply for an order or injunction
3 under s. 813.123 against the person prohibiting the interference.

4 **SECTION 148.** 55.043 (4) (title) of the statutes is amended to read:

5 55.043 (4) (title) OFFER OF SERVICES AND REFERRAL OF CASES.

6 **SECTION 149.** 55.043 (4) (intro.) of the statutes is renumbered 55.043 (4) (b)
7 (intro.) and amended to read:

8 55.043 (4) (b) (intro.) If upon investigation, after responding to a report, the
9 county protective services adult-at-risk agency finds misappropriation of property
10 or has reason to believe that the adult at risk has been the subject of abuse, financial
11 exploitation, neglect or abuse of a vulnerable adult, or self-neglect, the county
12 protective services adult-at-risk agency may do one or more any of the following:

13 **SECTION 150.** 55.043 (4) (a) of the statutes is renumbered 55.043 (4) (b) 1. and
14 amended to read:

15 55.043 (4) (b) 1. Offer services, including Initiate a protective services under
16 s. 55.05, a protective placement under s. 55.06, relocation assistance or other services
17 action or contact an investigative agency, as appropriate.

18 **SECTION 151.** 55.043 (4) (am) of the statutes is created to read:

19 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the
20 investigative agency shall determine whether the adult at risk or any other
21 individual involved in the alleged abuse, financial exploitation, neglect, or
22 self-neglect is in need of services under this chapter or ch. 46, 47, 59, 51, or 880. If
23 provided, direct services shall be rendered under the least restrictive conditions
24 necessary to achieve their objective.

ASSEMBLY BILL 539**SECTION 152**

1 **SECTION 152.** 55.043 (4) (b) of the statutes is renumbered 55.043 (4) (b) 2. and
2 amended to read:

3 55.043 **(4)** (b) 2. Take appropriate emergency action, including emergency
4 protective placement under s. 55.06, if the ~~county protective services~~ adult-at-risk
5 agency considers that the emergency action is in the ~~vulnerable adult's~~ best interests
6 of the adult at risk and the emergency action is the least restrictive appropriate
7 intervention.

8 **SECTION 153.** 55.043 (4) (c) of the statutes is renumbered 55.043 (4) (b) 3. and
9 amended to read:

10 55.043 **(4)** (b) 3. Refer the case to ~~local~~ law enforcement officials under, as
11 specified in sub. (2), for further investigation or to the district attorney, if the ~~county~~
12 ~~protective services~~ adult-at-risk agency has reason to believe that a ~~violation of chs.~~
13 ~~939 to 951 has occurred~~ crime has been committed.

14 **SECTION 154.** 55.043 (4) (d) of the statutes is renumbered 55.043 (4) (b) 4. and
15 amended to read:

16 55.043 **(4)** (b) 4. Refer the case to the licensing permitting, registration, or
17 certification authorities of the department or to other regulatory bodies if the
18 residence, facility, or program for the ~~vulnerable adult~~ at risk is or should be licensed,
19 permitted, registered, or certified or is otherwise regulated.

20 **SECTION 155.** 55.043 (4) (e) of the statutes is renumbered 55.043 (4) (b) 5. and
21 amended to read:

22 55.043 **(4)** (b) 5. Refer the case to the department of regulation and licensing
23 if the ~~misappropriation of property or~~ financial exploitation, neglect, self-neglect, or
24 abuse involves an individual who is required to hold a credential, as defined in s.
25 440.01 (2) (a), under chs. 440 to 460.

ASSEMBLY BILL 539**SECTION 156**

1 **SECTION 156.** 55.043 (4) (f) of the statutes is renumbered 55.043 (4) (b) 6. and
2 amended to read:

3 55.043 **(4)** (b) 6. Bring or refer for action to bring a petition for a guardianship
4 and protective service services or protective placement or a review of an existing
5 guardianship if necessary to prevent ~~misappropriation of property or~~ financial
6 exploitation, neglect, self-neglect, or abuse and if the ~~vulnerable adult~~ at risk would
7 otherwise be at risk of serious harm because of an inability to arrange for necessary
8 food, clothing, shelter ~~and~~ or services.

9 **SECTION 157.** 55.043 (5) of the statutes is repealed.

10 **SECTION 158.** 55.043 (5g) of the statutes is created to read:

11 55.043 **(5g)** REFUSAL OF SERVICES. An adult at risk may refuse to accept services
12 unless a guardian authorizes the services. The adult-at-risk agency or other
13 provider agency shall notify the adult at risk of this right to refuse before providing
14 services.

15 **SECTION 159.** 55.043 (6) of the statutes is created to read:

16 55.043 **(6)** RECORDS; CONFIDENTIALITY. (a) In this subsection:

17 1. “Departmental report form” includes documentation of an adult-at-risk
18 agency’s response to or investigation of a report made under sub. (1r) and is the
19 information required to be submitted to the department.

20 2. “Record” includes any document relating to the response, investigation,
21 assessment, and disposition of a report made under sub. (1r).

22 (am) The adult-at-risk agency shall prepare a departmental report form on its
23 response under sub. (1r) to a report of suspected abuse, financial exploitation,
24 neglect, or self-neglect. If the adult-at-risk agency refers the report to an
25 investigative agency, the investigative agency shall advise the adult-at-risk agency

ASSEMBLY BILL 539**SECTION 159**

1 in writing of its response to the report. The adult-at-risk agency shall maintain
2 records of suspected abuse, financial exploitation, neglect, or self-neglect.

3 (b) Departmental report forms are confidential and may not be released by the
4 adult-at-risk agency or other investigative agency, except under the following
5 circumstances:

6 1. To the adult at risk, any person named in a departmental report form who
7 is suspected of abusing, neglecting, or financially exploiting an adult-at-risk, and
8 the suspect's attorney. These persons may inspect the departmental report form,
9 except that information identifying the person who initially reported the suspected
10 abuse, financial exploitation, neglect, or self-neglect, or any other person whose
11 safety might be endangered through disclosure, may not be released.

12 2. To the agency or other entity contacted under sub. (2) (b). Information
13 obtained under this subdivision shall remain confidential.

14 3. To an individual, organization, or agency designated by the department or
15 as required by law for the purposes of management audits or program monitoring
16 and evaluation. Information obtained under this subdivision shall remain
17 confidential and may not be used in any way that discloses the names of or other
18 identifying information about the individuals involved.

19 4. For purposes of research, if the research project has been approved by the
20 department or the adult-at-risk agency and the researcher has provided assurances
21 that the information will be used only for the purposes for which it was provided to
22 the researcher, the information will not be released to a person not connected with
23 the study under consideration, and the final product of the research will not reveal
24 information that may serve to identify the individuals involved. The information
25 shall remain confidential. In approving the use of information under this

ASSEMBLY BILL 539**SECTION 159**

1 subdivision, the department shall impose any additional safeguards needed to
2 prevent unwarranted disclosure of information.

3 5. Under lawful order of a court of record.

4 6. To any agency or individual that provides direct services under sub. (4),
5 including an attending physician for purposes of diagnosis, examination, and
6 treatment, and within the department to coordinate treatment for mental illness,
7 developmental disabilities, alcoholism, or drug abuse of individuals committed to or
8 under the supervision of the department. Information obtained under this
9 subdivision shall remain confidential.

10 7. To the guardian of the adult at risk or the guardian of any person named in
11 a report who is suspected of abusing, neglecting, or financially exploiting an adult
12 at risk. These persons may inspect the departmental report form, except that
13 information identifying the person who initially reported the suspected abuse,
14 financial exploitation, neglect, or self-neglect, or any other person whose safety
15 might be endangered through disclosure, may not be released.

16 8. To law enforcement officials in accordance with the policy developed under
17 sub. (1g) (a).

18 9. To a federal agency, state governmental agency, agency of any other state,
19 or local unit of government in this state or any other state that has a need for a
20 departmental report form in order to carry out its responsibility to protect adults at
21 risk from abuse, financial exploitation, neglect, or self-neglect.

22 10. To the reporter who made a report in his or her professional capacity,
23 regarding action taken to protect or provide services to the alleged victim of abuse,
24 financial exploitation, neglect, or self-neglect.

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1 (bd) If a person requesting a departmental report form is not one of the persons
2 or entities specified in par. (b), the adult-at-risk agency may release information
3 indicating only whether or not a report was received and whether or not statutory
4 responsibility was fulfilled.

5 (br) Notwithstanding par. (b) 1. to 10., an adult-at-risk agency or an
6 investigative agency may not release departmental report forms under this section,
7 if any of the following applies:

8 1. The adult-at-risk agency determines that release would be contrary to the
9 best interests of the adult at risk who is the subject of the departmental report form
10 or of a minor residing with the subject of the departmental report form, or the release
11 is likely to cause mental, emotional, or physical harm to the subject of the
12 departmental report form or to any other individual.

13 2. The district attorney determines that disclosure of the information would
14 jeopardize any ongoing or future criminal investigation or prosecution or would
15 jeopardize a defendant's right to a fair trial.

16 3. The adult-at-risk agency determines that disclosure would jeopardize
17 ongoing or future civil investigations or proceedings or would jeopardize the fairness
18 of such a legal proceeding.

19 (bt) Subject to pars. (b), (bd), (br), (bv) and (bw), records under this subsection
20 are confidential and may not be released by the adult-at-risk agency or other
21 investigative agency, except under the following circumstances, upon request:

22 1. To the adult at risk who is the alleged victim named in the record.

23 2. To the legal guardian, conservator, or other legal representative of the adult
24 at risk who is the alleged victim named in the record, if the legal guardian,

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1 conservator, or other legal representative of the alleged victim is not the alleged
2 perpetrator of the abuse, financial exploitation, or neglect.

3 3. To law enforcement officials and agencies in accordance with the policy
4 developed under sub. (1g) (a) or with investigations conducted under sub. (1r), or a
5 district attorney, for purposes of investigation or prosecution.

6 4. To the department, under s. 51.03 (2), or for death investigations under s.
7 50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for
8 death investigations under s. 51.64 (2) (a).

9 5. To an employee of the county department under s. 51.42 or 51.437 that is
10 providing services to an adult at risk who is the alleged victim named in the record,
11 or to the alleged perpetrator of abuse, to determine whether the alleged victim should
12 be transferred to a less restrictive or more appropriate treatment modality or facility.

13 6. To a court, tribal court, or state governmental agency for a proceeding
14 relating to the licensure or regulation of an individual or entity regulated or licensed
15 by the state governmental agency, that was an alleged perpetrator of abuse, financial
16 exploitation, or neglect.

17 7. To the department, for management, audit, program monitoring,
18 evaluation, billing, or collection purposes.

19 8. To the attorney or guardian ad litem for the adult at risk who is the alleged
20 victim named in the record, to assist in preparing for any proceeding under ch. 48,
21 51, 55, 813, 880, 971, or 975 pertaining to the alleged victim.

22 9. To a coroner, medical examiner, pathologist, or other physician investigating
23 the cause of death of an adult at risk that is unexplained or unusual or is associated
24 with unexplained or suspicious circumstances.

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1 10. To staff members of the protection and advocacy agency designated under
2 s. 51.62 and the board on aging and long-term care under s. 16.009.

3 11. To an agency, including a probation or parole agency, that is legally
4 responsible for the supervision of an alleged perpetrator of abuse, neglect, or
5 financial exploitation of an adult at risk.

6 12. To a grand jury, if it determines that access to specified records is necessary
7 for the conduct of its official business.

8 13. Under a lawful order of a court of record.

9 (bv) The identity of a person making a report of alleged abuse, neglect,
10 self-neglect, or financial exploitation shall be deleted from any record prior to its
11 release under par. (bt) or from any departmental report form prior to its release
12 under par. (b). The identity of any reporter may only be released with the written
13 consent of the reporter or under a lawful order of a court of record.

14 (bw) A person to whom a departmental report form or a record is disclosed
15 under this subsection may not further disclose it, except to the persons and for the
16 purposes specified in this subsection.

17 (by) A custodian of records or departmental report forms incurs no civil or
18 criminal liability under this subsection and may not be found guilty of unprofessional
19 conduct for the release or nonrelease of records or departmental report forms in
20 accordance with this subsection while acting in good faith and within the scope of his
21 or her authority.

22 **SECTION 160.** 55.043 (7) of the statutes is created to read:

23 55.043 (7) EXCEPTION. Nothing in this section may be construed to mean that
24 a person is abused, financially exploited, neglected, or in need of direct or protective
25 services solely because he or she consistently relies upon treatment by spiritual

ASSEMBLY BILL 539**SECTION 160**

1 means through prayer for healing in lieu of medical care in accordance with his or
2 her religious tradition.

3 **SECTION 161.** 55.043 (8) of the statutes is created to read:

4 55.043 **(8)** DEPARTMENT DUTIES. (a) The department shall develop a plan to
5 assist adult-at-risk agencies in determining appropriate responses to reports of
6 abuse, financial exploitation, neglect, or self-neglect.

7 (b) The department shall prepare and distribute sample departmental report
8 forms for use by adult-at-risk agencies.

9 (c) The department shall collect statistical information from each county
10 pertaining to each reported case of abuse, financial exploitation, neglect, or
11 self-neglect. The department may require adult-at-risk agency workers or
12 investigators to submit departmental report forms to the department that
13 summarize the information being reported. These departmental report forms may
14 not name or otherwise identify individuals. The department shall use this
15 information to review the effectiveness of this section, to plan program changes, and
16 to formulate reports.

17 (d) The department shall develop and disseminate information on
18 adult-at-risk abuse and the adult-at-risk reporting system under this section. The
19 department shall also develop informational materials to be used by adult-at-risk
20 agencies regarding abuse of adults at risk and regarding the adult-at-risk abuse
21 reporting system. The department shall solicit contributions of labor, materials, and
22 expertise from private sources to assist in developing the informational materials.

23 **SECTION 162.** 55.043 (9) of the statutes is repealed.

24 **SECTION 163.** 55.043 (9m) of the statutes is created to read:

ASSEMBLY BILL 539**SECTION 163**

1 55.043 **(9m)** PENALTIES. (a) Any person, including the state or any political
2 subdivision of the state, violating sub. (6) is liable to any person damaged as a result
3 of the violation for such damages as may be proved, together with exemplary
4 damages of not less than \$100 nor more than \$500 for each violation and the costs
5 and reasonable actual attorney fees that are incurred by the person damaged.

6 (b) In any action brought under par. (a) in which the court determines that the
7 violation acted in a manner that was knowing and willful, the violator shall be liable
8 for such damages as may be proved together with exemplary damages of not less than
9 \$500 nor more than \$1,000 for each violation, together with costs and reasonable
10 actual attorney fees as may be incurred. It is not a prerequisite to an action under
11 par. (a) that the plaintiff suffer or be threatened with actual damages.

12 (c) An individual may bring an action to enjoin any violation of sub. (6) or to
13 compel compliance with sub. (6), and may in the same action seek damages as
14 provided in this subsection. The individual may recover costs and reasonable actual
15 attorney fees incurred in the action, if he or she prevails.

16 (d) Whoever violates sub. (1m) (c) 1. may be fined not more than \$10,000 or
17 imprisoned for not more than 6 months or both.

18 (e) Whoever intentionally violates sub. (1m) (b) by failure to report as required
19 may be fined not more than \$500 or imprisoned not more than 6 months or both.

20 **SECTION 164.** 55.06 (2) (c) of the statutes is amended to read:

21 55.06 **(2)** (c) As a result of developmental disabilities, ~~infirmities of aging~~
22 degenerative brain disorder, chronic mental illness, or other like incapacities, is so
23 totally incapable of providing for his or her own care or custody as to create a
24 substantial risk of serious harm to oneself himself, herself, or others. Serious harm
25 may be occasioned by overt acts or acts of omission; and

ASSEMBLY BILL 539**SECTION 165**

SECTION 165. 55.06 (11) (a) of the statutes is amended to read:

55.06 (11) (a) If, upon a credible report to or from personal observation of a sheriff, police officer, fire fighter, guardian, if any, or authorized representative of a board designated under s. 55.02 or an agency designated by it, it appears probable that an individual will suffer irreparable injury or death or will present a substantial risk of serious physical harm to others as a result of developmental disabilities, ~~infirmities of aging~~ degenerative brain disorder, chronic mental illness or other like incapacities if not immediately placed, the ~~person making~~ individual under this paragraph who received the credible report or who personally made the observation may take into custody and transport the individual to an appropriate medical or protective placement facility. The person making placement shall prepare a statement at the time of detention providing specific factual information concerning the person's observations and the basis for emergency placement. The statement shall be filed with the director of the facility and shall also be filed with any petition under sub. (2). At the time of placement the individual shall be informed by the director of the facility or the director's designee, both orally and in writing, of his or her right to contact an attorney and a member of his or her immediate family and the right to have an attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the individual is a child or is indigent. The director or designee shall also provide the individual with a copy of the statement by the person making emergency placement.

SECTION 166. 106.54 (5) of the statutes is amended to read:

106.54 (5) The division shall receive complaints of discharge, retaliation or discrimination under s. 16.009 (5) (d), 46.90 (4) (b) ~~or~~, 50.07 (3) (b), or 55.043 (1m) (c)

ASSEMBLY BILL 539**SECTION 166**

1 and shall process the complaints in the same manner that employment
2 discrimination complaints are processed under s. 111.39.

3 **SECTION 175.** 146.82 (2) (a) 7. of the statutes is amended to read:

4 146.82 **(2)** (a) 7. To ~~a county~~ an elder-adult-at-risk agency designated under
5 s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4)
6 ~~(a) and (5) or to the county protective services~~ an adult-at-risk agency designated
7 under s. 55.02 for purposes of s. 55.043. The health care provider may release
8 information by initiating contact with the ~~county~~ elder-adult-at-risk agency or
9 ~~county protective services~~ adult-at-risk agency without receiving a request for
10 release of the information from the ~~county~~ elder-adult-at-risk agency or ~~county~~
11 ~~protective services~~ adult-at-risk agency.

12 **SECTION 176.** 813.123 (title) of the statutes is amended to read:

13 **813.123** (title) ~~Vulnerable adult restraining~~ **Restraining orders and**
14 **injunctions for individuals at risk.**

15 **SECTION 177.** 813.123 (1) (a) of the statutes is amended to read:

16 813.123 **(1)** (a) “Abuse” has the meaning given in s. 55.01 ~~46.90~~ (1) (a).

17 **SECTION 178.** 813.123 (1) (ae) of the statutes is created to read:

18 813.123 **(1)** (ae) “Adult at risk” has the meaning given in s. 55.01 (1e).

19 **SECTION 179.** 813.123 (1) (am) of the statutes is created to read:

20 813.123 **(1)** (am) “Adult-at-risk agency” has the meaning given in s. 55.01 (1f).

21 **SECTION 180.** 813.123 (1) (b) of the statutes is amended to read:

22 813.123 **(1)** (b) “Bodily harm” has the meaning given in s. 939.22 ~~(4)~~ 46.90 (1)
23 (aj).

24 **SECTION 181.** 813.123 (1) (br) of the statutes is created to read:

25 813.123 **(1)** (br) “Caregiver” has the meaning given in s. 46.90 (1) (an).

ASSEMBLY BILL 539**SECTION 182**

1 **SECTION 182.** 813.123 (1) (c) of the statutes is repealed.

2 **SECTION 183.** 813.123 (1) (cg) of the statutes is created to read:

3 813.123 (1) (cg) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

4 **SECTION 184.** 813.123 (1) (dm) of the statutes is created to read:

5 813.123 (1) (dm) “Financial exploitation” has the meaning given in s. 46.90 (1)

6 (ed).

7 **SECTION 185.** 813.123 (1) (eg) of the statutes is created to read:

8 813.123 (1) (eg) “Harassment” has the meaning given in s. 813.125 (1).

9 **SECTION 186.** 813.123 (1) (ep) of the statutes is created to read:

10 813.123 (1) (ep) “Individual at risk” means an elder adult at risk or an adult
11 at risk.

12 **SECTION 187.** 813.123 (1) (f) of the statutes is repealed.

13 **SECTION 188.** 813.123 (1) (fm) of the statutes is created to read:

14 813.123 (1) (fm) “Mistreatment of an animal” means cruel treatment of any
15 animal owned by or in service to an individual at risk.

16 **SECTION 189.** 813.123 (1) (g) of the statutes is amended to read:

17 813.123 (1) (g) “Neglect” has the meaning given in s. ~~55.01(4r)~~ 46.90 (1) (f).

18 **SECTION 190.** 813.123 (1) (gr) of the statutes is created to read:

19 813.123 (1) (gr) “Self-neglect” has the meaning given in s. 46.90 (1) (g).

20 **SECTION 191.** 813.123 (1) (gs) of the statutes is created to read:

21 813.123 (1) (gs) “Stalking” means engaging in a course of conduct, as defined
22 in s. 940.32 (1) (a).

23 **SECTION 192.** 813.123 (1) (h) of the statutes is repealed.

24 **SECTION 193.** 813.123 (2) of the statutes is renumbered 813.123 (2) (a) and
25 amended to read:

ASSEMBLY BILL 539**SECTION 193**

1 813.123 (2) (a) No action under this section may be commenced by complaint
2 and summons. An action under this section may be commenced only by a petition
3 described under sub. (6). The action commences with service of the petition upon the
4 respondent if a copy of the petition is filed before service or promptly after service.
5 ~~The vulnerable adult, a parent, an adult sibling, an adult child or the legal guardian~~
6 ~~of the vulnerable adult or a county protective services agency~~ individual at risk, any
7 person acting on behalf of an individual at risk, an elder-adult-at-risk agency, or an
8 adult-at-risk agency may be a petitioner under this section. If the petition is filed
9 by a person other than the individual at risk, the petitioner shall serve a copy of the
10 petition on the individual at risk. Section 813.06 does not apply to an action under
11 this section. The respondent may respond to the petition either in writing before or
12 at the hearing on the issuance of the injunction or orally at that hearing.

13 **SECTION 194.** 813.123 (2) (b) of the statutes is created to read:

14 813.123 (2) (b) The court may go forward with a petition filed under sub. (6) if
15 the individual at risk has been adjudicated incompetent under ch. 880,
16 notwithstanding an objection by an individual at risk who is the subject of the
17 petition, or an objection by the guardian of the individual at risk.

18 **SECTION 195.** 813.123 (3) (b) (intro.) and 1. of the statutes are consolidated,
19 renumbered 813.123 (3) (b) and amended to read:

20 813.123 (3) (b) The court or circuit court commissioner, on its or his or her own
21 motion or the motion of any party, may shall order ~~one or more of the following:~~ 1.
22 That that a guardian ad litem be appointed under s. 880.331 (1) for the vulnerable
23 adult individual at risk, if the petition under sub. (6) was filed by a person other than
24 the individual at risk, and may order that a guardian ad litem be appointed in other
25 instances when justice so requires.

ASSEMBLY BILL 539**SECTION 196**

1 **SECTION 196.** 813.123 (3) (b) 2. and 3. of the statutes are renumbered 813.123
2 (3) (c) 1. and 2. and amended to read:

3 813.123 **(3)** (c) 1. That all persons, other than the ~~vulnerable adult~~ individual
4 at risk, the parties, their attorneys, a representative of the ~~county protective services~~
5 ~~adult-at-risk agency or elder-adult-at-risk agency~~, witnesses, court personnel, and
6 any guardian or any guardian ad litem, be excluded from any hearing under this
7 section.

8 2. That access to any record of an action under this section be available only
9 to the ~~vulnerable adult~~ individual at risk, the parties, their attorneys, any guardian
10 or any guardian ad litem, the ~~county protective services~~ adult-at-risk agency or
11 ~~elder-adult-at-risk agency~~, court personnel, and, upon appeal, any applicable court
12 upon appeal.

13 **SECTION 197.** 813.123 (3) (c) (intro.) of the statutes is created to read:

14 813.123 **(3)** (c) (intro.) The court or circuit court commissioner, on its or his or
15 her own motion or the motion of any party, may order any of the following:

16 **SECTION 198.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

17 813.123 **(4)** (a) (intro.) Unless the ~~vulnerable adult~~ individual at risk, guardian,
18 or guardian ad litem consents in writing and the judge or circuit court commissioner
19 agrees that the contact is in the best interests of the ~~vulnerable adult~~ individual at
20 risk, a judge or circuit court commissioner shall issue a temporary restraining order
21 ~~ordering the respondent to avoid interference with an investigation of the vulnerable~~
22 ~~adult under s. 55.043, the delivery of protective services to the vulnerable adult~~
23 ~~under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06, as~~
24 specified in par. (ar), if all of the following occur:

ASSEMBLY BILL 539**SECTION 199**

1 **SECTION 199.** 813.123 (4) (a) 2. of the statutes is renumbered 813.123 (4) (a) 2.
2 (intro.) and amended to read:

3 813.123 **(4)** (a) 2. (intro.) The judge or circuit court commissioner finds
4 reasonable grounds to believe that any of the following:

5 a. That the respondent has interfered with, or, based on prior conduct of the
6 respondent, may interfere with, an investigation of the vulnerable adult under s.
7 55.043, individual at risk, the delivery of protective services to the vulnerable adult
8 individual at risk under s. 55.05 or a protective placement of the vulnerable adult
9 individual at risk under s. 55.06, or the delivery of services to an elder adult at risk
10 under s. 46.90 (5m); and that the interference complained of, if continued, would
11 make it difficult to determine whether abuse, financial exploitation, neglect, or
12 self-neglect has occurred, is occurring, or may recur.

13 **SECTION 200.** 813.123 (4) (a) 2. b. of the statutes is created to read:

14 813.123 **(4)** (a) 2. b. That the respondent engaged in or threatened to engage
15 in the abuse, financial exploitation, neglect, harassment, or stalking of an individual
16 at risk or the mistreatment of an animal.

17 **SECTION 201.** 813.123 (4) (ar) of the statutes is created to read:

18 813.123 **(4)** (ar) A temporary restraining order issued under par. (a) shall order
19 the respondent to do one or more of the following:

20 1. Avoid interference with an investigation of the elder adult at risk under s.
21 46.90 or the adult at risk under s. 55.043, the delivery of protective services to the
22 individual at risk under s. 55.05 or a protective placement of the individual at risk
23 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m).

ASSEMBLY BILL 539**SECTION 201**

2. Cease engaging in or threatening to engage in the abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal.

3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both.

4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk.

5. Engage in any other appropriate remedy not inconsistent with the remedies requested in the petition.

SECTION 202. 813.123 (5) (a) (intro.) of the statutes is amended to read:

813.123 (5) (a) (intro.) Unless the ~~vulnerable adult~~ individual at risk, guardian, or guardian ad litem consents in writing to that ~~a~~ contact in writing and the judge agrees that the contact is in the best interests of the ~~vulnerable adult~~ individual at risk, a judge may grant an injunction ordering the respondent to ~~avoid interference with an investigation of the vulnerable adult under s. 55.043, the delivery of protective services to the vulnerable adult under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06, as specified in par. (ar),~~ if all of the following occur:

SECTION 203. 813.123 (5) (a) 3. a. of the statutes is amended to read:

813.123 (5) (a) 3. a. That the respondent has interfered with, or, based upon prior conduct of the respondent, may interfere with, an investigation of the ~~vulnerable elder adult at risk under s. 46.90 or the adult at risk under s. 55.043 and~~ that the interference complained of, if continued, would make it difficult to determine if ~~misappropriation of property or abuse or neglect,~~ financial exploitation,

ASSEMBLY BILL 539**SECTION 203**

1 neglect, harassment, or stalking of an individual at risk or mistreatment of an
2 animal is occurring or may recur.

3 **SECTION 204.** 813.123 (5) (a) 3. b. of the statutes is amended to read:

4 813.123 (5) (a) 3. b. That the respondent has interfered with the delivery to the
5 ~~vulnerable adult~~ individual at risk of protective services under s. 55.05 or a
6 protective placement of the ~~vulnerable adult~~ individual at risk under s. 55.06 after
7 the offer of protective services or protective placement has been made and the
8 ~~vulnerable adult~~ individual at risk or his or her guardian, if any, has consented to
9 receipt of the protective services or protective placement; or that the respondent has
10 interfered with the delivery of services to an elder adult at risk under s. 46.90 (5m).

11 **SECTION 205.** 813.123 (5) (a) 3. c. of the statutes is created to read:

12 813.123 (5) (a) 3. c. That the respondent has engaged in or threatened to engage
13 in the abuse, financial exploitation, neglect, harassment, or stalking of an individual
14 at risk or the mistreatment of an animal.

15 **SECTION 206.** 813.123 (5) (ar) of the statutes is created to read:

16 813.123 (5) (ar) An injunction granted under par. (a) shall order the respondent
17 to do one or more of the following:

18 1. Avoid interference with an investigation of the elder adult at risk under s.
19 46.90 or the adult at risk under s. 55.043, the delivery of protective services to the
20 individual at risk under s. 55.05 or a protective placement of the individual at risk
21 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m).

22 2. Cease engaging in or threatening to engage in the abuse, financial
23 exploitation, neglect, harassment, or stalking of an individual at risk or the
24 mistreatment of an animal.

ASSEMBLY BILL 539**SECTION 206**

1 3. Avoid the residence of the individual at risk or any other location temporarily
2 occupied by the individual at risk, or both.

3 4. Avoid contacting or causing any person other than a party's attorney or a law
4 enforcement officer to contact the individual at risk.

5 5. Any other appropriate remedy not inconsistent with the remedies requested
6 in the petition.

7 **SECTION 207.** 813.123 (5) (c) 1., 2. and 3. of the statutes are amended to read:

8 813.123 (5) (c) 1. An injunction under this subsection is effective according to
9 its terms but for not more than ~~2~~ 4 years.

10 2. When an injunction that has been in effect for less than 6 months expires,
11 the court shall extend the injunction if the petitioner states that an extension is
12 necessary to protect the ~~vulnerable adult~~ individual at risk. This extension shall
13 remain in effect until 6 months after the date on which the court first entered the
14 injunction.

15 3. If the petitioner states that an extension is necessary to protect the
16 ~~vulnerable adult~~ individual at risk, the court may extend the injunction for not more
17 than 2 years.

18 **SECTION 208.** 813.123 (6) (a) of the statutes is amended to read:

19 813.123 (6) (a) The name of the petitioner and the ~~vulnerable adult~~ individual
20 at risk.

21 **SECTION 209.** 813.123 (6) (c) of the statutes is amended to read:

22 813.123 (6) (c) That the respondent interfered with, or, based on prior conduct
23 of the respondent, may interfere with, an investigation of the elder adult at risk
24 under s. 46.90 (5), an investigation of the ~~vulnerable adult~~ adult at risk under s.
25 55.043, the delivery of protective services to the ~~vulnerable adult~~ individual at risk

ASSEMBLY BILL 539**SECTION 209**

1 under s. 55.05 or a protective placement of the ~~vulnerable adult~~ individual at risk
2 under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m);
3 or that the respondent engaged in, or threatened to engage in, the abuse, financial
4 exploitation, neglect, stalking, or harassment of an individual at risk or
5 mistreatment of an animal.

6 **SECTION 210.** 813.123 (7) of the statutes is amended to read:

7 813.123 (7) INTERFERENCE ORDER. Any order under ~~this section directing a~~
8 ~~person to avoid interference with an investigation of a vulnerable adult under s.~~
9 ~~55.043, the delivery of protective services to a vulnerable adult under s. 55.05 or a~~
10 ~~protective placement of a vulnerable adult under s. 55.06 prohibits the person sub.~~
11 ~~(4) (ar) 1. or 2. or (5) (ar) 1. or 2. also shall prohibit the respondent~~ from intentionally
12 preventing a representative or employee of the county protective services agency
13 from meeting, communicating or being in visual or audio contact with the ~~vulnerable~~
14 ~~adult~~ adult at risk, except as provided in the order.

15 **SECTION 211.** 813.123 (9) (intro.) of the statutes is amended to read:

16 813.123 (9) (intro.) A law enforcement officer ~~may~~ shall arrest and take a
17 person into custody if all of the following occur:

18 **SECTION 212.** 813.123 (11) of the statutes is repealed.

19 **SECTION 213.** 880.01 (2) of the statutes is amended to read:

20 880.01 (2) “Developmentally disabled person” means any individual having a
21 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
22 another neurological condition closely related to mental retardation or requiring
23 treatment similar to that required for mentally retarded individuals, which has
24 continued or can be expected to continue indefinitely, substantially impairs the
25 individual from adequately providing for his or her own care or custody and

ASSEMBLY BILL 539**SECTION 213**

1 constitutes a substantial handicap to the afflicted individual. The term does not
2 include a person affected by senility which is primarily caused by the process of aging
3 or the infirmities of aging with degenerative brain disorder, as defined in s. 55.01
4 (1v).

5 **SECTION 214.** 880.01 (4) of the statutes is amended to read:

6 880.01 (4) “Incompetent” means a person adjudged by a court of record to be
7 substantially incapable of managing his or her property or caring for himself or
8 herself by reason of infirmities of aging degenerative brain disorder, developmental
9 disabilities, or other like incapacities. Physical disability without mental incapacity
10 is not sufficient to establish incompetence.

11 **SECTION 215.** 880.01 (5) of the statutes is renumbered 880.01 (1t) and amended
12 to read:

13 880.01 (1t) “~~Infirmities of aging~~” “Degenerative brain disorder” means ~~organic~~
14 ~~brain damage caused by advanced age or other physical degeneration in connection~~
15 ~~therewith to the extent that the person so afflicted~~ the loss or dysfunction of brain
16 cells to the extent that an individual is substantially impaired in his or her ability
17 to adequately provide adequately for his or her own care or custody.

18 **SECTION 216.** 895.85 (2) of the statutes is amended to read:

19 895.85 (2) SCOPE. This section does not apply to awards of double damages or
20 treble damages, or to the award of exemplary damages under ss. 46.90 (6) (c) (9) (a)
21 and (b), 51.30 (9), 51.61 (7), 55.043 (9m) (a) and (b), 103.96 (2), 134.93 (5), 146.84 (1)
22 (b) and (bm), 153.85, 252.14 (4), 252.15 (8) (a), 610.70 (7) (b), 943.245 (2) and (3) and
23 943.51 (2) and (3).

24 **SECTION 217.** 940.225 (2) (j) of the statutes is created to read:

ASSEMBLY BILL 539**SECTION 217**

1 940.225 (2) (j) Is a licensee, employee, or nonclient resident of an entity, as
2 defined in s. 48.685 (1) (b) or 50.065 (1) (c), and has sexual contact or sexual
3 intercourse with a client of the entity.

4 **SECTION 218.** 940.225 (5) (ab) of the statutes is renumbered 940.225 (5) (acm).

5 **SECTION 219.** 940.225 (5) (abm) and (ak) of the statutes are created to read:

6 940.225 (5) (abm) “Client” means an individual who receives direct care or
7 treatment services from an entity.

8 (ak) “Nonclient resident” means an individual who resides, or is expected to
9 reside, at an entity, who is not a client of the entity, and who has, or is expected to
10 have, regular, direct contact with the clients of the entity.

11 **SECTION 220.** 940.285 (title) of the statutes is amended to read:

12 **940.285 (title) Abuse of vulnerable adults individuals at risk.**

13 **SECTION 221.** 940.285 (1) (a) of the statutes is repealed.

14 **SECTION 222.** 940.285 (1) (ag) of the statutes is created to read:

15 940.285 (1) (ag) “Abuse” means any of the following:

- 16 1. Physical abuse, as defined in s. 46.90 (1) (fg).
- 17 2. Emotional abuse, as defined in s. 46.90 (1) (cm).
- 18 3. Sexual abuse, as defined in s. 46.90 (1) (gd).
- 19 4. Treatment without consent, as defined in s. 46.90 (1) (h).
- 20 5. Unreasonable confinement or restraint, as defined in s. 46.90 (1) (i).
- 21 6. Deprivation of a basic need for food, shelter, clothing, or personal or health
22 care, including deprivation resulting from the failure to provide or arrange for a basic
23 need by a person who has assumed responsibility for meeting the need voluntarily
24 or by contract, agreement, or court order.

25 **SECTION 223.** 940.285 (1) (am) of the statutes is created to read:

ASSEMBLY BILL 539**SECTION 223**

940.285 (1) (am) “Adult at risk” has the meaning given in s. 55.01 (1e).

SECTION 224. 940.285 (1) (b), (bm), (c) and (d) of the statutes are repealed.

SECTION 225. 940.285 (1) (dc) of the statutes is created to read:

940.285 (1) (dc) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

SECTION 226. 940.285 (1) (dg) of the statutes is created to read:

940.285 (1) (dg) “Individual at risk” means an elder adult at risk or an adult at risk.

SECTION 227. 940.285 (1) (e) of the statutes is repealed.

SECTION 227m. 940.285 (1m) of the statutes is created to read:

940.285 (1m) EXCEPTION. Nothing in this section may be construed to mean that a vulnerable adult is abused solely because he or she consistently relies upon treatment by spiritual means through prayer for healing, in lieu of medical care, in accordance with his or her religious tradition.

SECTION 228. 940.285 (2) (title) and (a) 1. to 3. of the statutes are amended to read:

940.285 (2) (title) ~~MALTREATMENT~~ ABUSE; PENALTIES.

(a) 1. Intentionally subjects ~~a vulnerable adult~~ an individual at risk to maltreatment abuse.

2. Recklessly subjects ~~a vulnerable adult~~ an individual at risk to maltreatment abuse.

3. Negligently subjects ~~a vulnerable adult~~ an individual at risk to maltreatment abuse.

SECTION 229. 940.295 (1) (a) of the statutes is renumbered 940.295 (1) (am).

SECTION 230. 940.295 (1) (ad) of the statutes is created to read:

940.295 (1) (ad) “Abuse” has the meaning given in s. 46.90 (1) (a).

ASSEMBLY BILL 539**SECTION 231**

1 **SECTION 231.** 940.295 (1) (ag) of the statutes is created to read:

2 940.295 (1) (ag) “Adult at risk” has the meaning given in s. 55.01 (1e).

3 **SECTION 232.** 940.295 (1) (b) of the statutes is amended to read:

4 940.295 (1) (b) “Bodily harm” has the meaning given in s. 939.22 (4) 46.90 (1)
5 (aj).

6 **SECTION 233.** 940.295 (1) (cm) of the statutes is repealed.

7 **SECTION 234.** 940.295 (1) (hm) of the statutes is repealed.

8 **SECTION 235.** 940.295 (1) (j) of the statutes is repealed.

9 **SECTION 236.** 940.295 (1) (jm) of the statutes is repealed.

10 **SECTION 237.** 940.295 (1) (k) of the statutes is repealed and recreated to read:

11 940.295 (1) (k) “Neglect” has the meaning given in s. 46.90 (1) (f).

12 **SECTION 238.** 940.295 (1) (km) of the statutes is repealed and recreated to read:

13 940.295 (1) (km) “Negligence” means an act, omission, or course of conduct that
14 the actor should realize creates a substantial and unreasonable risk of death, great
15 bodily harm, or bodily harm to another person.

16 **SECTION 239.** 940.295 (1) (kp) of the statutes is repealed.

17 **SECTION 240.** 940.295 (1) (n) of the statutes is repealed.

18 **SECTION 241.** 940.295 (1) (o) of the statutes is amended to read:

19 940.295 (1) (o) “Recklessly” means conduct which that creates a situation of
20 unreasonable risk of death or harm to and demonstrates a conscious disregard for
21 the safety of the patient or resident.

22 **SECTION 242.** 940.295 (1) (t) of the statutes is repealed.

23 **SECTION 243.** 940.295 (3) (a) 3. of the statutes is amended to read:

24 940.295 (3) (a) 3. Negligently abuses Abuses, with negligence, or neglects a
25 patient or a resident.

ASSEMBLY BILL 539**SECTION 244**

SECTION 244. 940.295 (3) (b) 1g. of the statutes is amended to read:

940.295 **(3)** (b) 1g. Any person violating par. (a) 1. or 2. under circumstances that cause death to ~~a vulnerable person~~ an individual at risk is guilty of a Class C felony. Any person violating par. (a) 3. under circumstances that cause death to ~~a vulnerable person~~ an individual at risk is guilty of a Class D felony.

SECTION 245. 940.295 (3) (b) 1m. of the statutes is amended to read:

940.295 **(3)** (b) 1m. Any person violating par. (a) under circumstances that cause great bodily harm to ~~a vulnerable person~~ an individual at risk is guilty of a Class E felony.

SECTION 246. 943.20 (2) (a) of the statutes is renumbered 943.20 (2) (ag).

SECTION 247. 943.20 (2) (ac) of the statutes is created to read:

943.20 **(2)** (ac) “Adult at risk” has the meaning given in s. 55.01 (1e).

SECTION 248. 943.20 (2) (ad) of the statutes is created to read:

943.20 **(2)** (ad) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

SECTION 249. 943.20 (2) (ae) of the statutes is created to read:

943.20 **(2)** (ae) “Individual at risk” means an elder adult at risk or an adult at risk.

SECTION 250. 943.20 (2) (e) of the statutes is repealed.

SECTION 251. 943.20 (3) (d) 6. of the statutes is amended to read:

943.20 **(3)** (d) 6. The property is taken from a patient or resident of a facility or program under s. 940.295 (2) or from ~~a vulnerable adult~~ an individual at risk.

SECTION 252. Initial applicability.

(1) ELDER-ADULT-AT RISK REPORTS. The treatment of sections 20.435 (7) (dh), 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (4) (h), 46.90 (1) (a), (aj), (an), (b), (br), (bt), (c), (cm), (d), (e), (ed), (eg), (er), (f), (fg), (g), (gd), (gf), (gr), (h),

ASSEMBLY BILL 539**SECTION 252**

1 and (i), (2), (3) (title), (a), (b), and (c), (4) (a) 1. and 2., (ab), (ad), (ae), (b) 1. b., c., and
2 cm. and 2. c., (c), (d), and (e), (5) (title), (b) (intro.) and 1. to 5., (br), (c), (d) 1. and 2.,
3 (f), (g), and (h), (5m) (title), (a), (b), (br), and (c), (6) (a), (ac), (b) (intro.), 1., 2., 3., 4.,
4 5., 6., 7., 9., and 10., (bd), (br), (bt), (bv), (bw), (by), (c) 1., 2., and 3., (7), (8) (a), (b), (c),
5 and (d), and (9) (title) and (e), 51.42 (3) (e), and 51.437 (4r) (b) of the statutes, the
6 renumbering and amendment of section 46.90 (5) (a) of the statutes, and the creation
7 of section 46.90 (5) (a) 2. and (b) 6. of the statutes first apply to reports of alleged
8 abuse, financial exploitation, neglect, or self-neglect received on the effective date
9 of this subsection.

10 (3) EMERGENCY DETENTIONS AND CIVIL COMMITMENTS. The treatment of section
11 51.01 (2g) (b), (3g), and (5) (a) of the statutes first applies to emergency detentions
12 and civil commitments made on the effective date of this subsection.

13 (4) REQUESTS FOR SERVICE. The treatment of section 51.62 (1) (ag), (ar), and (br)
14 and (3) (a) 2m. of the statutes first applies to requests for service made to the
15 protection and advocacy agency on the effective date of this subsection.

16 (5) ADULT-AT-RISK REPORTS. The treatment of sections 55.001, 55.01 (1), (1e),
17 (1f), (1m), (1p), (1t), (1v), (2), (2s), (3), (4g), (4p), (4r), (6), (6d), (6g), and (7), 55.02,
18 55.043 (title), (1) (title), (a) (intro.), 1., 2., 3., 4., and 5., (b) (intro.), 1. and 2. (intro.),
19 a., and b., (1d), (1g), (1m), (1r) (title), (a) 2., (b) (intro.), 3., and 6. a. and b., (c) 2. b.,
20 and (d), (3), (4) (title), (intro.), (a), (am), (b), (c), (d), (e), and (f), (5), (5g), (6), (7), (8),
21 (9), and (9m), 55.06 (2) (c) and (11) (a), and 106.54 (5) of the statutes, the renumbering
22 and amendment of section 55.043 (2) of the statutes, and the creation of section
23 55.043 (2) (b) of the statutes first apply to reports of alleged abuse, financial
24 exploitation, neglect, or self-neglect received on the effective date of this subsection.

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(7) INDIVIDUAL-AT-RISK RESTRAINING ORDERS AND INJUNCTIONS. The treatment of section 813.123 (title), (1) (a), (ae), (am), (b), (br), (c), (cg), (dm), (eg), (ep), (f), (fm), (g), (gr), (gs), and (h), (3) (b) (intro.), 1., 2., and 3. and (c) (intro.), (4) (a) (intro.) and 2., (ar), (5) (a) (intro.), 3. a., b., and c., (ar), (c) 1., 2., and 3., (6) (a) and (c), (7), (9) (intro.), and (11) of the statutes, the renumbering and the amendment of section 813.123 (2) of the statutes, and the creation of section 813.123 (2) (b) and (4) (a) 2. b. of the statutes first apply to actions for restraining orders and injunctions for individuals at risk commenced on the effective date of this subsection.

(8) PETITIONS FOR GUARDIANSHIP. The treatment of section 880.01 (2), (4), and (5) of the statutes first applies to petitions for guardianship submitted on the effective date of this subsection.

(9) SEXUAL ASSAULTS OF ENTITY CLIENTS. The treatment of section 940.225 (2) (j) and (5) (ab), (abm), and (ak) of the statutes first applies to violations committed on the effective date of this subsection.

(10) ABUSE OF INDIVIDUALS AT RISK. The treatment of section 940.285 (title), (1) (a), (ag), (am), (b), (bm), (c), (d), (dc), (dg), and (e) and (2) (title) and (a) 1. to 3. of the statutes first applies to violations committed on the effective date of this subsection.

(11) ABUSE AND NEGLECT OF PATIENTS AND RESIDENTS. The treatment of section 940.295 (1) (a), (ad), (ag), (b), (cm), (hm), (j), (jm), (k), (km), (kp), (n), (o), and (t) and (3) (a) 3. and (b) 1g. and 1m. of the statutes first applies to violations committed on the effective date of this subsection.

(12) THEFT OF PROPERTY OF INDIVIDUALS AT RISK. The treatment of section 943.20 (2) (a), (ac), (ad), (ae), and (e) and (3) (d) 6. of the statutes first applies to violations committed on the effective date of this subsection.

SECTION 252m. Effective date.

3 (END)